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No. 49] NEW DELHI, NOVEMBER 30—DECEMBER 6, 2003, SATURDAY/AGRAHAYANA 9—AGRAHAYANA 15, 1925

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

मंत्रिमंडल सचिवालय

नई दिल्ली, 25 नवम्बर, 2003

का०आ० 3304.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं० 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए राजस्थान राज्य सरकार के गृह (ग्रुप-5) विभाग की अधिसूचना सं. एफ. 14(5) गृह/ग्रुप. 5/2003 जयपुर दिनांक 03-06-2003 द्वारा प्राप्त राजस्थान राज्य सरकार की सहमति से पुलिस स्टेशन सोडाला, जयपुर (दक्षिण), जयपुर में भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 302 और 201 के अधीन दर्ज मामला एफआईआर सं. 198/2003 और उपर्युक्त अपराधों से संबंधित अथवा संसक्त प्रयत्नों, दुष्प्रेरणों और षडयंत्रों तथा उसी संव्यवहार के अनुक्रम में किए गए उन्हीं तथ्यों से उद्भूत किन्हीं अन्य अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण राजस्थान राज्य पर करती है।

[सं० 228/50/2003-डी.एस.पी.ई.]

शुभा ठाकुर, अवर सचिव

CABINET SECRETARIAT

New Delhi, the 25th November, 2003

S.O. 3304.—In exercise of the powers conferred by Sub-section (1) of Section 5 read with Section 6 of Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Rajasthan Home (Group-V) Department vide Notification No. F. 14(5) Home/Gr. V/2003 Jaipur dated 3rd June 2003, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Rajasthan for investigation of Case FIR No. 198/2003 registered at Police Station Sodala, Jaipur (South), Jaipur under Sections 302 and 201 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and attempts, abetments and conspiracies in relation to or in connection with said offences and any other offences committed in the course of the same transactions arising out of the same facts.

[No. 228/50/2003-DSPE]

SHUBHA THAKUR, Under Secy.

**गृह मंत्रालय**

( एफ. एफ. आर. प्रभाग )

नई दिल्ली, 20 नवम्बर, 2003

**का०आ० 3305.**—निष्क्रांत हित (पृथक्करण) अधिनियम, 1951 (1951 का 64) की धारा 13 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री एस. एन. अग्रवाल, अपर जिला न्यायाधीश, तीस हजारी, दिल्ली को तत्काल प्रभाव से राष्ट्रीय राजधानी क्षेत्र, दिल्ली के अपील अधिकारी के रूप में नियुक्त करती है।

2. इसके द्वारा भारत सरकार, गृह मंत्रालय, (पुनर्वास प्रभाग) दिनांक 6 जून, 2001 की अधिसूचना संख्या 1 (1)/2000-बंदोबस्त का अधिक्रमण किया जाता है।

[सं० 1(3)/2003-आर० एंड एस० ओ०]

पी० के० कौल, अवर सचिव

**MINISTRY OF HOME AFFAIRS****(FIR DIVISION)**

New Delhi, the 20th November, 2003

**S.O. 3305.**—In exercise of the powers conferred by Sub-section (1) of Section 13 of the Evacuee Interest (Separation) Act, 1951 (LXIV of 1951, the Central Government hereby appoints Shri S. N. Aggarwal, Additional District Judge, Tis Hazari, Delhi as Appellate Officer for the National Capital Territory of Delhi with immediate effect.

2. This supersedes Government of India, Ministry of Home Affairs (Rehabilitation Division)'s Notification No. 1(1)/2000-Settlement dated 6th June, 2001.

[No. 1(3)/2003-R&amp;SO]

P. K. KAUL, Under Secy.

नई दिल्ली, 25 नवम्बर, 2003

**का०आ० 3306.**—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में, गृह मंत्रालय के निम्नलिखित कार्यालयों में हिन्दी का कार्यसाधक ज्ञान रखने वाले कर्मचारियों की संख्या 80% से अधिक हो जाने के फलस्वरूप उन्हें एतद्वारा अधिसूचित करती है :

1. केन्द्रीय औद्योगिक सुरक्षा बल इकाई, लखनऊ एयरपोर्ट, लखनऊ, उत्तर प्रदेश।
2. केन्द्रीय औद्योगिक सुरक्षा बल इकाई, ओ एन जी सी, गंधार, गुजरात।
3. केन्द्रीय औद्योगिक सुरक्षा बल इकाई, सिविल एयरपोर्ट, आगरा, उत्तर प्रदेश।
4. केन्द्रीय औद्योगिक सुरक्षा बल इकाई, बी.एच.ई.एल., जगदीशपुर, उत्तर प्रदेश।
5. केन्द्रीय औद्योगिक सुरक्षा बल इकाई, आई एस पी नासिक रोड, नासिक, महाराष्ट्र।
6. केन्द्रीय औद्योगिक सुरक्षा बल इकाई, ए पी एस यू मद्रुरई, तमिलनाडु।

7. केन्द्रीय औद्योगिक सुरक्षा बल इकाई, एस वी पी एन एयरपोर्ट, अहमदाबाद, गुजरात।
8. केन्द्रीय औद्योगिक सुरक्षा बल इकाई, ए जी पी पी, फरीदाबाद, हरियाणा।
9. केन्द्रीय औद्योगिक सुरक्षा बल इकाई, दाबोलिम एयरपोर्ट, गोवा।
10. केन्द्रीय औद्योगिक सुरक्षा बल इकाई, एन सी एल सिंगरौली, मध्य प्रदेश।
11. केन्द्रीय औद्योगिक सुरक्षा बल इकाई, इस्को, बर्नपुर, पश्चिम बंगाल।
12. केन्द्रीय औद्योगिक सुरक्षा बल इकाई, पंजाब एवं हरियाणा सिविल सचिवालय, चण्डीगढ़।
13. केन्द्रीय औद्योगिक सुरक्षा बल इकाई, नागपुर एयरपोर्ट, नागपुर, महाराष्ट्र।
14. केन्द्रीय औद्योगिक सुरक्षा बल इकाई, पुणे एयरपोर्ट, महाराष्ट्र।
15. केन्द्रीय औद्योगिक सुरक्षा बल इकाई, डी टी पी एस, दुर्गापुर, पश्चिम बंगाल।
16. केन्द्रीय औद्योगिक सुरक्षा बल इकाई, आई पी पी एस, नई दिल्ली।

[सं० 12017/1/2002-हिन्दी]

राजेन्द्र सिंह, निदेशक (रा०भा०)

New Delhi, the 25th November, 2003

**S.O. 3306.**—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices of the Ministry of Home Affairs where the percentage of Hindi knowing staff has gone above 80%:

1. Central Industrial Security Force Unit, Lucknow Airport, Lucknow, Uttar Pradesh.
2. Central Industrial Security Force Unit, ONGC Gandhar, Gujrat.
3. Central Industrial Security Force Unit, Civil Airport, Agra, Uttar Pradesh.
4. Central Industrial Security Force Unit, BHEL, Jagdishpur, Uttar Pradesh.
5. Central Industrial Security Force Unit, ISP Nasik Road, Nasik, Maharashtra.
6. Central Industrial Security Force Unit, APSU, Madurai, Tamilnadu.
7. Central Industrial Security Force Unit, SVPN Airport, Ahmedabad, Gujarat.
8. Central Industrial Security Force Unit, AGPP, Faridabad, Haryana.
9. Central Industrial Security Force Unit, Dabolim Airport, Goa.
10. Central Industrial Security Force Unit, NCL Singrauli, Madhya Pradesh.
11. Central Industrial Security Force Unit, IISCO, Bumpur, West Bengal.

12. Central Industrial Security Force Unit, Punjab & Haryana Civil Secretariat, Chandigarh.
13. Central Industrial Security Force Unit, Nagpur Airport, Nagpur, Maharashtra.
14. Central Industrial Security force Unit, Pune Airport, Maharashtra.
15. Central Industrial Security Force Unit, DTPS, Durgapur, West Bengal.
16. Central Industrial Security Force Unit, IPPS, New Delhi.

[No. 12017/1/2002-Hindi]

RAJENDRA SINGH, Director (OL)

वित्त मंत्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 13 नवम्बर, 2003

स्टाम्प

**का०आ० 3307.**— भारतीय स्टाम्प अधिनियम, 1899 (1899 के 2) की धारा 9 की उप-धारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा तमिलनाडु इलैक्ट्रीसिटी बोर्ड, चेन्नई को मात्र दो करोड़ दस लाख रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है जो उक्त बोर्ड द्वारा जारी किए जाने वाले मात्र दो सौ दस करोड़ रुपये के समग्र मूल्य प्रोमिसरी नोटों के रूप में वर्णित एक-एक लाख रुपये प्रत्येक के 8.90 प्रतिशत तमिलनाडु इलैक्ट्रीसिटी बोर्ड पाँवर बंधपत्रों (शृंखला-1, 2, 3 और 4) पर स्टाम्प शुल्क के कारण प्रभाय है।

[सं. 39/2003-स्टाम्प/फा. सं. 33/52/2003-बि.क.]

आर० जी० छाबड़ा, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

ORDER

New Delhi, the 13th November, 2003

STAMPS

**S.O. 3307.**—In exercise of the powers conferred by clause (b) of Sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits Tamil Nadu Electricity Board, Chennai to pay consolidated stamp duty of rupees two crore ten lakh only chargeable on account of the stamp duty on 8.90% Tamil Nadu Electricity Board Power Bonds (Series-1, 2, 3 and 4) of rupees one lakh each in the nature of promissory notes aggregating to rupees two hundred ten crore only, to be issued by the said Board.

[No. 39/2003-STAMP/F. No. 33/52/2003-ST]

R. G. CHHABRA, Under Secy.

आदेश

नई दिल्ली, 13 नवम्बर, 2003

स्टाम्प

**का०आ० 3308.**— भारतीय स्टाम्प अधिनियम, 1899 (1899 के 2) की धारा 9 की उप-धारा (1) के खंड (ख) द्वारा प्रदत्त

शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा आवास एवं शहरी विकास निगम, लिमिटेड, नई दिल्ली को मात्र छह करोड़ सत्तासठ लाख चौतीस हजार रुपए का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है जो उक्त निगम द्वारा जारी किए जाने वाले मात्र एक हजार अट्ठहत्तर करोड़ सत्तर लाख रुपये के समग्र मूल्य के एक से 574 तक की विशिष्ट संख्या वाले हुडको बंधपत्र शृंखला एचबी-XXXI ए, एचबी-XXXI बी, एचबी-XXXI सी, एचबी-XXXI डी, एचबी-XXXI ई तथा 0001 से 10213 तक की विशिष्ट संख्या वाले हुडको बंधपत्र एचबी-XXXIII ए, एचबी-XXXIII ख, एचबी-XXXIII ग पर स्टाम्प शुल्क के कारण प्रभाय है।

[सं. 37/2003-स्टाम्प/फा. सं. 33/55/2003-बि.क.]

आर० जी० छाबड़ा, अवर सचिव

ORDER

New Delhi, the 13th November, 2003

STAMPS

**S.O. 3308.**—In exercise of the powers conferred by clause (b) of Sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits Housing & Urban Development Corporation Limited, New Delhi to pay consolidated stamp duty of rupees six crore sixtyseven lakh thirty four thousand only chargeable on account of the stamp duty on bonds described as HUDCO Bonds Series HB-XXXI A, HB-XXXI B, HB-XXXI C, HB-XXXI D, HB-XXXI E bearing distinctive numbers from 1 to 574 and HUDCO Bonds Series HB-XXXIII A, HB-XXXIII B and HB-XXXIII C bearing distinctive numbers from 0001 to 10213, aggregating to rupees one thousand seventy eight crore seventy lakh only, to be issued by the said Corporation.

[No. 37/2003-STAMP/F. No. 33/55/2003-ST]

R. G. CHHABRA, Under Secy.

आदेश

नई दिल्ली, 13 नवम्बर, 2003

स्टाम्प

**का०आ० 3309.**— भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा आन्ध्र प्रदेश पाँवर फाइनेंस कारपोरेशन लिमिटेड, हैदराबाद को मात्र सात करोड़ उन्चास लाख नौ हजार दो सौ पचास रुपए का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है जो उक्त कारपोरेशन द्वारा जारी किए जाने वाले मात्र नौ सौ अट्ठानवे करोड़ सत्तर लाख रुपये के समग्र मूल्य के ऋणपत्रों के रूप में वर्णित असुरक्षित अपरिवर्तनीय विमोच्च पाँवर बंधपत्रों (शृंखला III/ 2003 और शृंखला IV/ 2003) पर स्टाम्प शुल्क के कारण प्रभाय है।

[सं. 38/2003-स्टाम्प/फा. सं. 33/47/2003-बि.क.]

आर० जी० छाबड़ा, अवर सचिव

**ORDER**

New Delhi, the 13th November, 2003

**STAMPS**

S.O. 3309.—In exercise of the powers conferred by clause (b) of Sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits Andhra Pradesh Power Finance Corporation Limited, Hyderabad to pay consolidated stamp duty of rupees seven crore forty nine lakh nine thousand two hundred fifty only on account of the stamp duty on **Unsecured Non-Convertible Redeemable Power Bonds (Series III/2003 and Series IV/2003) in the nature of debentures aggregating to rupees nine hundred ninety eight crore seventy lakh only, to be issued by the said Corporation.**

[No.38/2003-STAMP/F. No. 33/47/2003-ST]

R. G. CHHABRA, Under Secy.

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 14 नवम्बर, 2003

(आयकर)

का०आ० 3310.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (iii) के प्रयोजनार्थ "संस्था" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

- (i) अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगी;
- (ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गति-विधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग 'टेक्नोलॉजी भवन' न्यू महरौली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी;
- (iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोदिष्ट निर्धारण की आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिलटन रो, पांचवां तल, कलकत्ता-700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त, आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगी।

क्रम सं	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैसर्स वेदान्त कल्चरल फाउंडेशन, 1ए, लैण्ड्स एण्ड मालाबार हिल डोंगासी रोड, मुम्बई-400006	1-8-2003 से 31-3-2006

**टिप्पणी :**—अधिसूचित संस्था को सलाह दी जाती है कि वह अनुमोदित के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएगी।

[अधिसूचना सं. 293/2003/फ़. सं. 203/88/2003-आयकर नि.-II]

संगीता गुप्ता, निदेशक (आयकर नि.-II)

(CENTRAL BOARD OF DIRECT TAXES)

New Delhi, the 14th November, 2003

(INCOME TAX)

S.O. 3310.—It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (iii) of Sub-section (1) of Section 35 of the Income-tax Act, 1961 read with Rule 6 of the Income-tax Rules, 1962 under the category "Institution" subject to the following conditions :—

- (i) The notified Institution shall maintain separate book of account for its research activities;
- (ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhavan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;
- (iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income-tax (Exemptions), 10 Middleton Row, 5th Floor, Calcutta-700071, (b) the Secretary, Department of Scientific & Industrial research, and (c) the Commissioner of Income-tax/Director of Income tax (Exemptions) having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of Section 35 of Income-tax Act, 1961 in addition to the return of Income-tax to the designated assessing officer.



S. No.	Name of the organisation approved	Period for which notification is effective
1.	M/s. Vedanta Cultural Foundation, 1A, Lands End, Malabar Hill, Dongarsi Road, Mumbai-400006	1-8-2003 to 31-3-2006

**Notes :** The notified Institution is advised to apply in triplicates as well in advance for renewal of the approval, to the Central Government through the Commissioner of Income-tax/Director of Income tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 293/2003/F.No. 203/88/2003-ITA-II]

SANGEETA GUPTA, Director (ITA-II)

नई दिल्ली, 19 नवम्बर, 2003

**का०आ० 3311.**—सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23-छ) के प्रयोजनार्थ कर निर्धारण वर्ष 2003-2004, 2004-2005 और 2005-2006 के लिए नीचे पैरा (3) में उल्लिखित उद्यम को अनुमोदित करती है।

2. यह अनुमोदन इस शर्त के अधीन है कि :—

(i) उद्यम/औद्योगिक उपक्रम आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23छ) के उपबंधों के अनुरूप होगा और उनका अनुपालन करेगा;

(ii) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम/औद्योगिक उपक्रम :—

(क) अवसंरचनात्मक सुविधा को जारी रखना बंद कर देता है, अथवा

(ख) खाता-बहियों का रख-रखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 2ड के उप नियम (7) द्वारा यथा अपेक्षित किसी लेखाकार द्वारा ऐसे खातों की लेखा परीक्षा नहीं कराता है, अथवा

(ग) आयकर नियमावली, 1962 के नियम 2ड के उप नियम (7) द्वारा यथा अपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है।

3. अनुमोदित उद्यम/औद्योगिक उपक्रम है :—

मैसर्स जी.वी.के. जयपुर एक्सप्रेसवे प्रा. लि. ओयसिस, 5-8, वीर विहार, क्वीन्स रोड, जयपुर-302021 राजस्थान को निर्माण, संचालन

एवं हस्तांतरण (बी.ओ.टी.) आधार पर मौजूदा 2 से 6 लेनों में विभाजित परिवहन मार्ग के चौड़ीकरण की परियोजना के लिए जिसमें राजस्थान राज्य में राष्ट्रीय राजमार्ग सं.-8 (एन.एच.-8) के जयपुर और किशनगढ़ खंड पर मौजूदा 2 लेनों को किलोमीटर 273/500 से कि. मी. 363/885 किया जाना भी शामिल है (फा. सं. 205/45/2002-आयकर नि.-II)

[अधिसूचना सं. 295/2003/ फा. सं. 205/45/2002-आयकर नि.-II]

संगीता गुप्ता, निदेशक, (आयकर नि.-II)

New Delhi, the 19th November, 2003

**S.O. 3311.**—It is notified for general information that enterprise/industrial undertaking, listed at para (3) below has been approved by the Central Government for the purpose of Section 10(23G) of the Income-tax Act, 1961, read with Rule 2E of the Income-tax Rules, 1962, for the assessment years 2003-2004, 2004-2005 and 2005-2006.

2. The approval is subject to the condition that—

(i) the enterprise/industrial undertaking will conform to and comply with the provisions of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962;

(ii) the Central Government shall withdraw this approval if the enterprise/industrial undertaking :—

(a) ceases to carry on infrastructure facility; or

(b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (7) of Rule 2E of the Income-tax Rules, 1962,

(c) fails to furnish the audit report as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962.

3. The enterprise/industrial undertaking approved is—

M/s. GVK Jaipur Kishangarh Expressway Pvt. Ltd. Oasis, 5-8, Veer Vihar, Queens Road, Jaipur-302021 Rajasthan for their project of widening of the existing 2 lanes to 6 lanes divided carriageway facility including rehabilitation of existing 2 lanes from KM 273/500 to KM 363/885 on Jaipur and Kishangarh section of the National Highway No. 8 (NH-8) in the State of Rajasthan, on Build, Operate and Transfer (BOT) Basis (F. No. 205/45/2002/ITA-II).

[Notification No. 295/2003/F.No. 205/45/2002-ITA-II]

SANGEETA GUPTA, Director (ITA-II)

नई दिल्ली, 19 नवम्बर, 2003

**का०आ० 3312.**—सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23-छ) के प्रयोजनार्थ कर निर्धारण वर्ष 2002-2003,

2003-2004 और 2004-2005 के लिए नीचे पैरा (3) में उल्लिखित उद्यम/औद्योगिक उपक्रम को अनुमोदित करती है।

2. यह अनुमोदन इस शर्त के अधीन है कि :—

(i) उद्यम/औद्योगिक उपक्रम आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23छ) के उपबंधों के अनुरूप होगा और उनका अनुपालन करेगा;

(ii) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम/औद्योगिक उपक्रम:—

(क) अवसंरचनात्मक सुविधा को जारी रखना बंद कर देता है; अथवा

(ख) खाता बहियों का रख-रखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 2ड के उप नियम (7) द्वारा यथा अपेक्षित किसी लेखाकार द्वारा ऐसे खातों की लेखा परीक्षा नहीं कराता है; अथवा

(ग) आयकर नियमावली, 1962 के नियम 2ड के उप नियम (7) द्वारा यथा अपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है।

3. अनुमोदित उद्यम/औद्योगिक उपक्रम है :—

मैसर्स जी.वी.के. इण्डस्ट्रीज लि., कोहिनूर रोड सं. 1, बंजारा हिल्स, हैदराबाद-500034 को 440 मेगावाट, फेज-II, गैस आधारित संयुक्त साइकिल पावर परियोजना, जगुरुपाडू, आंध्र प्रदेश की उनकी परियोजना के लिए (फा. सं. 205/36/1998-आयकर नि.-III (खंड-III))

[अधिसूचना सं. 296/2003/ फा. सं. 205/36/1998-आयकर नि.-II (खंड-III)]

संगीता गुप्ता, निदेशक, (आयकर नि.-II)

New Delhi, the 19th November, 2003

**S.O. 3312.**—It is notified for general information that enterprise/industrial undertaking, listed at para (3) below has been approved by the Central Government for the purpose of Section 10(23G) of the Income-tax Act, 1961, read with Rule 2E of the Income-tax Rules, 1962, for the assessment years 2002-2003, 2003-2004 and 2004-2005.

2. The approval is subject to the condition that—

(i) the enterprise/industrial undertaking will conform to and comply with the provisions of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962;

(ii) the Central Government shall withdraw this approval if the enterprise/industrial undertaking :—

(a) ceases to carry on infrastructure facility; or

(b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (7) of Rule 2E of the Income-tax Rules, 1962; or

(c) fails to furnish the audit report as required by sub-rule (7) of Rule 2E of the Income-tax Rules, 1962.

3. The enterprise/industrial undertaking approved is—

M/s. GVK Industries Ltd., Kohinoor, Road No. 1, Banjara Hills, Hyderabad-500034 for their project of 440 MW, Phase II gas based combined cycle power project at Jegurupadu, Andhra Pradesh (F. No. 205/36/1998-ITA-II (Vol. III)).

[Notification No. 296/2003/F.No. 205/36/1998/ITA-II(Vol. III)]

SANGEETA GUPTA, Director (ITA-II)

नई दिल्ली, 19 नवम्बर, 2003

( आयकर )

**का०आ० 3313.**—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ "संस्था" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

(i) अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा-बहियों का रख-रखाव करेगी;

(ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग 'टेक्नोलॉजी भवन', न्यू महरोली सेड, नई दिल्ली-110016 को प्रस्तुत करेगी;

(iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामादिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिलटन रो, पांचव तल, कलकत्ता-700071।

(ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगी।

क्रम सं	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है	S. No.	Name of the organisation approved	Period for which notification is effective
1.	एलपीजी इक्विपमेंट रिसर्च सेंटर, आईटीआई मेन गेट के सामने, ओल्ड मद्रास रोड, दूरवानी नगर, बंगलौर-560016	1-4-2001 से 31-3-2004	1.	LPG Equipment Research Centre (LERC), Opp. ITI Main Gate, Old Madras Road, Doorvaninagar-Bangalore-560016	1-4-2001 to 31-3-2004

**टिप्पणी :**—अधिसूचित संस्था को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करे। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 297/2003 फा. सं. 203/30/2002-आयकर नि.-II]

संगीता गुप्ता, निदेशक (आयकर नि.-II)

New Delhi, the 19th November, 2003

#### (INCOME TAX)

**S.O. 3313.**—It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (ii) of sub-Section (1) of Section 35 of the Income tax Act, 1961, read with Rule 6 of the Income-tax Rules, 1962 under the category "Institution" subject to the following conditions :—

- The notified Institution shall maintain separate books of accounts for its research activities;
- The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhavan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;
- The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Calcutta-700071 (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of Section 35 of Income tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

**Notes :** The notified Institution is advised to apply in triplicates as well in advance for renewal of the approval, to the Central Government through the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 297/2003/F.No. 203/30/2002-ITA-II]

SANGEETA GUPTA, Director (ITA-II)

नई दिल्ली, 24 नवम्बर, 2003

#### ( आयकर )

**का०आ० 3314.**—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (I) के खंड (iii) के प्रयोजनार्थ "संस्था" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

- अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगी;
- अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गति-विधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग 'टेक्नोलॉजी भवन' न्यू मेहरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी;
- अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोनिर्दिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिलटन रो, पांचवां तल, कोलकाता-700071।  
(ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग, तथा  
(ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगी।

क्रम सं	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैसर्स पार्श्वनाथ विद्यापीठ 20/6 मथुरा रोड, फरीदाबाद- 121006.	1-4-2000 से 31-3-2001

S. No.	Name of the organisation approved	Period for which notification is effective
1.	M/s Parshwanath Vidya Peeth, 20/6, Mathura Road, Faridabad-121006	1-4-2000 to 31-3-2001

**टिप्पणी :**— अधिसूचित संस्था को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करे। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएगी।

**Notes :** The notified Institution is advised to apply in triplicates as well in advance for renewal of the approval, to the Central Government through the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[अधिसूचना सं. 306/2003/फ.सं. 203/10/2000-आयकर नि.-II]

[Notification No. 306/2003/F.No. 203/10/2000-ITA-II]

संगीता गुप्ता, निदेशक (आयकर नि.-II)

SANGEETA GUPTA, Director (ITA-II)

New Delhi, the 24th November, 2003

नई दिल्ली, 24 नवम्बर, 2003

### (INCOME TAX)

### (आयकर)

**S.O. 3314.**—It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (iii) of Sub-section (1) of Section 35 of the Income tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 under the category "Institution" subject to the following conditions :—

**का०आ० 3315.**—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (iii) के प्रयोजनार्थ "संस्था" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

- The notified Institution shall maintain separate books of accounts for its research activities;
- The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhavan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;
- The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Calcutta-700071, (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of Section 35 of Income tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

- अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगी;
- अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गति-विधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग 'टेक्नोलॉजी भवन' न्यू मेहरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी;
- अधिसूचित संस्था केन्द्र सरकार की तरफ से नामनिर्दिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिलटन रो, पांचवां तल, कोलकाता-700071।  
(ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग, तथा  
(ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगी।

क्रम सं	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है	S. No.	Name of the organisation approved	Period for which notification is effective
1.	मैसर्स नौरोजी वाडिया मेटर्निटी हास्पिटल सर्वेस वाडिया रिसर्च सोसायटी, आचार्य डोन्डे मार्ग, पैरल, मुम्बई-12	1-4-2001 से 31-3-2004	I.	M/s. Nowrosjee Wadia Maternity Hospital Sir Ness Wadia Research Society Acharya Donde Marg, Parel, Mumbai-12	1-4-2001 to 31-3-2004

**टिप्पणी :—** अधिसूचित संस्था को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[ अधिसूचना सं. 305/2003/फा. सं. 203/13/2002-आयकर नि.-II ]

संगीता गुप्ता, निदेशक (आयकर नि.-II)

New Delhi, the 24th November, 2003

#### (INCOME TAX)

**S.O. 3315.**—It is hereby notified for general information that the organised mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (ii) of Sub-section (1) of Section 35 of the Income tax Act, 1961, read with Rule 6 of the Income-tax Rules, 1962 under the category "Institution" subject to the following conditions :—

- The notified Institution shall maintain separate books of accounts for its research activities;
- The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial research, 'Technology Bhawan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;
- The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Calcutta-700071; (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of Section 35 of Income tax Act, 1961 in addition to the return of Income-tax to the designated assessing officer.

**Notes :** The notified Institution is advised to apply in triplicates as well in advance for renewal of the approval, to the Central Government through the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 305/2003/F.No. 203/13/2002-ITA-II]

SANGEETA GUPTA, Director (ITA-II)

नई दिल्ली, 25 नवम्बर, 2003

( आयकर )

**का०आ० 3316.**—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा "श्री द्वारकाधीशजी मंदिर, जिला-द्वारका, जामनगर" को वर्ष 1999-2000 से 2001-2002 के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त खंड के प्रयोजनार्थ अनुमोदन करता है, अर्थात् :—

- कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगी जिनके लिए इसकी स्थापना की गई है;
- कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा ;
- यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगा, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;
- कर-निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;

- (v) विघटन की स्थिति में इसकी अतिरिक्त राशियां और परिसम्पत्तियां समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 313/2003/फ. सं. 197/72/2003-आईटीए-1]

आई० पी० एस० बिन्द्रा, अवर सचिव

New Delhi, the 25th November, 2003

**(INCOME TAX)**

**S.O. 3316.**—In exercise of the powers conferred by the sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Shri Dwarkadhishji Mandir, Dwarka Distt. Jamnagar" for the purpose of the said sub-clause for the assessment years 1999-2000 to 2001-2002 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above other wise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) This notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return to income before the income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives;

[Notification No. 313/2003/F.No. 197/72/2003-ITA-I]

I.P.S. BINDRA, Under Secy.

नई दिल्ली, 25 नवम्बर, 2003

**( आयकर )**

**का०आ० 3317.**—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उप-खंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा "कलकत्ता

जोरास्ट्रियन कम्युनिटीज रिलिजियस एण्ड चैरिटी फंड, कोलकत्ता" को वर्ष 2002-2003 से 2004-2005 के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखंड के प्रयोजनार्थ अनुमोदित करता है, अर्थात् :—

- (i) कर-निर्धारित अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगी जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारित उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारित के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;
- (iv) कर-निर्धारित आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;
- (v) विघटन की स्थिति में इसकी अतिरिक्त राशियां और परिसम्पत्तियां समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएगी।

[अधिसूचना सं. 309/2003/फ. सं. 197/46/2003-आईटीए-1]

आई० पी० एस० बिन्द्रा, अवर सचिव

New Delhi, the 25th November, 2003

**(INCOME TAX)**

**S.O. 3317.**—In exercise of the powers conferred by the sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Calcutta Zoroastrian Community's Religious and Charity Fund, Kolkatta" for the purpose of the said sub-clause for the assessment years 2002-2003 to 2004-2005 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.)

for any period during the previous years relevant to the assessment years mentioned above other than in any one or more of the forms or modes specified in Sub-section (5) of Section 11;

- (iii) This notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 309/2003/F.No. 197/46/2003-ITA-I]

I.P.S. BINDRA, Under Secy.

नई दिल्ली, 25 नवम्बर, 2003

( आयकर )

का०आ० 3318.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा "श्री पद्मनाभास्वामी टेम्पल ट्रस्ट, त्रिवेन्द्रम" को वर्ष 1995-96 के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप-खंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात् :—

- (i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगी जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा ;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;

(iv) कर-निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;

(v) विघटन की स्थिति में इसकी अतिरिक्त राशियां और परिसम्पत्तियां समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएगी।

[अधिसूचना सं. 311/2003/फ. सं. 197/173/2001-आईटीए-1]

आई० पी० एस० बिन्द्रा, अवर सचिव

New Delhi, the 25th November, 2003

(INCOME TAX)

S.O. 3318.—In exercise of the powers conferred by the sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Srce Padmanabhaswamy Temple Trust, Trivandrum" for the purpose of the said sub-clause for the assessment years 1995-1996 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above other wise than in any one or more of the forms or modes specified in Sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 311/2003/F.No. 197/173/2001-ITA-I]

I.P.S. BINDRA, Under Secy.



(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 25 नवम्बर, 2003

का०आ० 3319.—राष्ट्रीयकृत बैंक (प्रबन्ध एवं प्रकीर्ण उपबन्ध) स्कीम, 1970 के खण्ड के उपखण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970 की धारा 9 की उपधारा (3) (ज) एवं (3-क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, एतद्वारा श्री आनंद स्वरूप अग्रवाल, व्यवसायी एवं पत्रकार, 35-ए, सिविल लाइन्स, बरेली को अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए पंजाब नेशनल बैंक में अंशकालिक गैर-सरकारी निदेशक के पद पर नामित करती है।

[फा. सं. 9/17/2000-बीओ-1]

रमेश चन्द, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 25th November, 2003

S.O. 3319.—In exercise of the powers conferred by Sub-section (3)(h) and (3-A) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 read with sub-clause (1) of Clause 3 of the Nationalised Banks (Management & Miscellaneous Provisions) Scheme, 1970, the Central Government, hereby nominates Shri Anand Swarup Agarwal, Businessman and Journalist, 35-A, Civil Lines, Bareilly as part-time non-official director of Punjab National Bank for a period of three years from the date of notification.

[F. No. 9/17/2000-B.O.I]

RAMESH CHAND, Under Secy.

नई दिल्ली, 25 नवम्बर, 2003

का०आ० 3320.—राष्ट्रीयकृत बैंक (प्रबन्ध एवं प्रकीर्ण उपबन्ध) स्कीम, 1970 के खण्ड के उपखण्ड (1) और (II) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970 की धारा 9 की उपधारा (3) के खण्ड (च) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के बाद, एतद्वारा श्री विश्वबन्धु भट्टाचार्य, महासचिव अखिल भारतीय इलाहाबाद बैंक अधिकारी संघ, जो सहायक प्रबंधक (जएमआ स्केल-1) भविष्य निधि विभाग, प्रधान कार्यालय, 14, इंडिया एक्सचेंज प्लेस, कोलकाता में तैनात हैं को अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए या उनका उत्तराधिकारी नियुक्त किए जाने तक या इलाहाबाद बैंक में उनके अधिष्ठापन न रहने तक या अगले आदेश तक, इनमें से जो भी पहले हो, इलाहाबाद बैंक के निदेशक बोर्ड में अधिकारी कर्मचारी निदेशक के रूप में नामित करती है, बशर्ते कि वह लगातार छः वर्ष की अवधि तक पद धारण नहीं करेंगे।

[सं. 9/6/2003-बीओ-1]

रमेश चन्द, अवर सचिव

New Delhi, the 25th November, 2003

S.O. 3320.—In exercise of the powers conferred by clause (f) of Sub-section 3 of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 read with sub-clause (1) and (2) of clause (9) of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India hereby nominates Shri Biswabandhu Bhattacharya, General Secretary, All India Allahabad Bank Officers' Association and posted as Assistant Manager (JMG Scale-I), Provident Fund Department, Head Office, 14, India Exchange Place, Kolkata as Officer Employee Director on the Board of Directors of Allahabad Bank for a period of three years with effect from the date of notification or until his successor is appointed or till he ceases to be an officer of Allahabad Bank, or until further orders, whichever is earlier, provided that he shall not hold office continuously for a period of six years.

[F. No. 9/6/2003-B.O.I]

RAMESH CHAND, Under Secy.

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 10 नवम्बर, 2003

का०आ० 3321.—रेल मंत्रालय (रेलवे बोर्ड), राजभाषा नियम 1976 (संघ के शासकीय प्रयोजनों के लिए प्रयोग) के नियम 10 के उपनियम (2) और (4) के अनुसरण में उत्तर-मध्य रेलवे के मंडल रेल प्रबंधक कार्यालय, आगरा को, जहां 80% या उससे अधिक अधिकारियों/कर्मचारियों ने हिंदी का कार्यसाधक, ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करता है।

[सं. हिंदी-2003/रा.भा.1/12/3]

आर० अर० भंडारी, सचिव

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 10th November, 2003

S.O. 3321.—Ministry of Railways (Railway Board), in pursuance of Sub Rule (2) and (4) of Rule 10 of the Official Language Rules, 1976 (use for the official purposes of the Union) hereby, notify Divisional Railway Manager's Office, Agra of North-Central Railway, where 80% or more Officers/Employees have acquired the working knowledge of Hindi.

[No. Hindi-2003/OL-1/12/3]

R. R. BHANDARI, Secy.

## विदेश मंत्रालय

( सी.पी.वी. डिवीजन )

नई दिल्ली, 13 नवम्बर, 2003

**का. आ. 3322.**—राजनयिक कौंसली अधिकारी (शपत एवं शुल्क) अधिनियम 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत का राजदूतावास, हनोई में निम्नलिखित सहायकों को 13-11-2003 से सहायक कौंसली अधिकारी का कार्य करने हेतु प्राधिकृत करती है।

- (1) श्री डेविड वी. कुमार
- (2) श्री राजू खर

[सं.टी.-4330/01/2003]

उपेन्द्र सिंह रावत, अवर सचिव (कौंसुलर)

## MINISTRY OF EXTERNAL AFFAIRS

(C.P.V. Division)

New Delhi, the 13th November, 2003

**S.O. 3322.**—In pursuance of the clause (a) of the Section 2 of Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorise following Assistants in the Embassy of India, Hanoi to perform the duties of Assistant Consular Officer with effect from 13-11-2003.

- (i) Shri David V. Kumar
- (ii) Shri Raju Khar

[No. T-4330/01/2003]

U.S. RAWAT, Under Secy. (Cons.)

## उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

( उपभोक्ता मामले विभाग )

( भारतीय मानक ब्यूरो )

नई दिल्ली, 21 नवम्बर, 2003

**का.आ. 3323.**—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के उपनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अभिसूचित करता है कि जिन लाईसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

## अनुसूची

क्रम सं.	लाईसेंस संख्या	स्वीकृत करने की तिथि वर्ष/माह	लाईसेंस धारी का नाम व पता	भारतीय मानक का शीर्षक	भा मा भाग अनु. संख्या	वर्ष
1	2	3	4	5	6	
1.	6368278	2002-12-16	मैसर्स लिओ फूड्स, 24-60/9, फर्स्ट फ्लोर, आईडीए उप्पल, हैदराबाद	सख्त चाशनी वाली चीनी की मिठाईयाँ (दूसरा पुनरीक्षण)	01008	81
2.	6368379	2002-12-30	मैसर्स कोहिनूर फाइबर प्रॉडक्ट्स पीपीवीआई, 254ए, पुझाथि कक्कड़ कन्नूर, जिला 670005	कुशनिंग के लिए रबड़ चढ़े नारियल जटा की शीट (पहला पुनरीक्षण)	08391	87

1	2	3	4	5	6	
3.	6368480	2002-12-30	मैसर्स आन्ध्रा सीमेंट्स लि., दुर्गानगर (पीओ), विशाखापटनम	पोर्टलैंड पोजोलाना सीमेंट भाग 1 फ्लाईएश आधारित (तीसरा पुनरीक्षण)	01489 01	91
4.	6368581	2001-12-26	मैसर्स मणियम ज्वेलरी, 58, बाजार स्ट्रीट, नामक्कल, 637001	स्वर्ण एवं मिश्रतधातुएं, आभूषण/ शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट (तीसरा पुनरीक्षण)	01417	99
5.	6368682	2002-12-30	मैसर्स श्री साई इंडस्ट्रीज, 583/2-बी, अवनाशी रोड, सिविल ऐरोड्रम पोस्ट, कोयम्बतूर 641014	निमज्जनीय पम्प सैट (पहला पुनरीक्षण)	08034	89
6.	6368783	2002-12-30	मैसर्स श्री साई इंडस्ट्रीज, 583/2-बी, अवनाशी रोड, सिविल ऐरोड्रम पोस्ट, कोयम्बतूर 641014	निमज्जनीय पम्प सैटों के लिए मोटर्स (पहला पुनरीक्षण)	09283	95
7.	6368783	2002-12-30	मैसर्स श्री साई इंडस्ट्रीज, 583/25 बी, अवनाशी रोड, सिविल ऐरोड्रम पोस्ट, कोयम्बतूर 641014	निमज्जनीय पम्प सैटों के लिए मोटर्स (पहला पुनरीक्षण)	09283	95
8.	6368884	2002-12-26	मैसर्स तुंगा पीवीसी पाइप्स प्रा.लि., 134, बोम्मासान्द्रा इंड. एरिया, होसूर रोड, बंगलौर 562158	विद्युत संस्थापन के लिए कंड्यूट भाग 3 कंड्यूट विद्युत रोधक सामग्री के लिए दृढ़ सांद्र कंड्यूट	09537 03	83
9.	6368985	2003-01-01	मैसर्स कर्नाटक प्रेशर व्हीसल्स लि., 13-सी अट्टिबेले इंड. एरिया, अनेंकल तालुक, बंगलौर 560107	स्वचल उपयोग के लिए द्रवित पैट्रोलीयम गैस (एलपीजी) के धारक विशिष्ट	14899	2000
10.	6369078	2002-12-30	मैसर्स मणियम एक्वा प्रा.लि., एस.न. 42, पेट बशीराबाद क्वाटाबल्लापुर मण्डल, रंगा रेड्डी जिला	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्ट	14543	98
11.	6369179	2002-12-30	मैसर्स साउथर्न क्रिस्टल वॉटर, थाइयूर रोड, केलमबक्कम, कॉचीपुरम जिला 603 103	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्ट	14543	98
12.	6369280	2002-12-20	मैसर्स श्रीवास्तवा सिंथेटिक्स प्रा. लि., 1/14, केट्टुनाकोंडा (गाँव) इब्राहिमपटनम (मंडल), कृष्णा जिला 521 456	जल सह कार्य यौगिक की विशिष्ट (पहला पुनरीक्षण)	02645	989
13.	6369381	2002-12-24	मैसर्स दक्कन सीमेंट्स लि. (स्लेग सीमेंट डिबीजन), भवानीपुरम जनपहाड, पी ओ नेरेडुचेरला मंडल, नालगोंडा जिला-508218	पोर्टलैंड धातुमल (स्लेग) सीमेंट (चौथा पुनरीक्षण)	00455	89

1	2	3	4	5	6		
14.	6369482	2002-12-24	मैसर्स श्री वेंकटासाई पैकेजिंग इंडस्ट्रीज, यूनिट 2, प्लॉट नं. 755 से 757 सुबाश नगर, आईडीए जीडिमेटला, हैदराबाद 500055	विस्फोटकों की पैकिंग हेतु सामान्य अपेक्षाएं भाग 1 व्यापारिक उच्च विस्फोटक (पहला पुनरीक्षण)	10212	01	86
15.	6369583	2003-01-02	मैसर्स सिस्टर वॉटर 394/3 डेविड नगर पाडापई, श्री पेरूमपुडूर तालुक-601301	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्ट	14543		98
16.	6369684	2003-01-01	मैसर्स संगीता ज्वेलरी, चित्तूर रोड, समीप साउथ जंक्शन, कोची-682016	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट (तीसरा पुनरीक्षण)	01417		99
17.	6369785	2003-01-06	मैसर्स सप्तगिरि एक्वा सिस्टम्स प्रा लि., 40-41 संतोष कटिज विजयानगरम सेतिपति पोस्ट, डिंडीगुल-624314	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्ट	14543		98
18.	6369886	2002-11-20	मैसर्स मेरीमेक यमर्स, नं. 95वाँ मेन राजाजी नगर, इंडस्ट्रियल टाउन ए.डी. हल्ली राजाजी नगर, बंगलौर-560079	प्रतिहिम शीतलक (पहला पुनरीक्षण)	05759		94
19.	6369987	2002-12-30	मैसर्स टॉवर इंडिया मिनरल वॉटर, 4/2 ए थिरुवल्लूर हाई रोड, पुंडुचेतराम गाँव-602107	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्ट	14543		98
20.	6370063	2002-12-23	मैसर्स इंडो प्रिकास्ट इंडस्ट्रीज, सी-5 आईडीए उप्पलशी रोड, हैदराबाद-500039	पूर्व ढलित कंकरीट मैनहोल के ढक्कन और फ्रेम भाग 1 ढक्कन	12592	01	94
21.	6370164	2003-01-01	मैसर्स श्री साबरी इंडस्ट्रीज, 203, 100 फीट रोड टाटाबाद (पी ओ) कोयम्बतूर-641012	पम्प पुनर्योजी स्वच्छ ढंडे पानी के लिए (पहला पुनरीक्षण)	08472		98
22.	6370265	2002-12-30	मैसर्स जस एच 20 नेट वर्किंग, 93/1ए बजानी कोयलस्ट्रीट, एथिपेट, चेन्नई-600058	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्ट	14543		98
23.	6370366	2002-12-12	मैसर्स मयूरी बेवरेजिज, प्लॉट नं. 36 और 37, सागर हाउसिंग कॉम्पलेक्स, सागर रोड, रंगारेड्डी जिला	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्ट	14543		98
24.	6370467	2002-12-02	मैसर्स पी. मनोहरलाल ज्वेलर्स 8-2-674/6/1/ए रोड नं. 13, बंजारा हिल्स, हैदराबाद-500034	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट (तीसरा पुनरीक्षण)	01417		99

1	2	3	4	5	6	
25.	6370568	2003-01-02	मैसर्स साई श्रीनिवासा इंडस्ट्रीज, के. अग्राहरम जग्गायापेट मण्डल कृष्णा जिला-521175	43 ग्रेड साधारण पोर्टलैंड सीमेंट (पहला पुनरीक्षण)	08112	89
26.	6370669	2003-01-06	मैसर्स अमुल्स स्क्रीन एण्ड पम्पस, 6/9 कुंज नैकर थोट्टम एथिपलायम रोड, चिन्नावेदमपत्ति गणपति (पी ओ) कोयम्बतूर-641006	निमज्जनीय पम्प सेट (पहला पुनरीक्षण)	08034	89
27.	6370770	2003-01-10	मैसर्स इंडस मिनरल वॉटर, मानेल्लूर (मेडू) माधरपक्कम पी.ओ., गुम्मीडिपोंडी, तिरुवेल्लूर जिला	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्ट	14543	98
28.	6370871	2003-01-07	मैसर्स बीटीएम बेवरेजिज प्रा.लि., सर्वे नं. 124/1 बी 9वाँ किमी अंचेलागरि गाँव करवर रोड, हुबली-580024	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्ट	14543	98
29.	6370972	2003-01-10	मैसर्स श्रीसेल्वा मुधुकेमारन इंडस्ट्रीज, 1/2292, अन्नाई टेरेसा स्ट्रीट, सोलियमन नगर, रेड हिल्स, चेन्नई-600052	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्ट	14543	98
30.	6371065	2002-12-16	मैसर्स वाप्शी पॉलिमर्स शेड नं. 51 आईडीए फेस-2, चेरलापल्ली, आर आर जिला 600051	सिंचाई तंत्र के छिड़काव यंत्र के लिए पालीइथाइलीन पाइप	14151 01	99
31.	6371166	2003-01-13	मैसर्स थेन्तराल मिनरल वॉटर, 1/2481, शिवान्ती अतिथन नगर, थिरुवेल्लूर हाई रोड, रेड हिल्स, चेन्नई-600052	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्ट	14543	98
32.	6371267	2002-12-30	मैसर्स नेशनल इक्विपमेंट कम्पनी 151-बी अबाइया नायडू ले आउट, पी.एन. पलायम रोड, गणपति पी.ओ. कोयम्बतूर-641006	निमज्जन पम्प सेटों के लिए मोटर्स (पहला पुनरीक्षण)	09283	95
33.	6371368	2003-01-10	मैसर्स सौन्दर्या एजेन्सिस, 9, मरूधू पन्डियार नगर, कोडिकलूर करन्थात्तनगुडि पोस्ट थन्जावूर-613002	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्ट	14543	98
34.	6371469	2003-01-14	मैसर्स कृष्णा एग्रो फूड्स, 217, ओल्ड महापालीपुरम रोड, शोलिंगानाल्लूर, चेन्नई-600119	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्ट	14543	98
35.	6371570	2003-01-13	मैसर्स भवानी ट्रेडर्स प्लॉट नं. 4 चर्च रोड (सम्मुख-पोनियाम्मन कोइल) इजामबक्कम, चेन्नई 600041	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्ट	14543	98
36.	6371671	2002-12-26	मैसर्स दावनम ज्वेलर्स 506/507 एवेन्यू रोड बंगलौर 560002	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट (तीसरा पुनरीक्षण)	01417	99

1	2	3	4	5	6	
37.	6371772	2003-01-02	मैसर्स जुपीटर केबल्स प्रा.लि. यूनिट 2 प्लाट नं. ए-15 पार्ट आईडीए कुक्कपल्ली कुतबूल्लापुर मण्डल आर आर जिला (आं.प्र.) 500037	1100 वोल्ट तक की कार्यकारी वोल्टता के लिए पीवीसी रोधित केबल (तीसरा पुनरीक्षण)	00694	89
38.	6371873	2003-01-16	मैसर्स आर-विन एक्वा प्रॉडक्ट्स न्यू नं. 18, ग्राउण्ड फ्लोर, गंगारोड एगमोर चेन्नई-600008	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्टि	14543	98
39.	6371974	2003-01-16	मैसर्स शक्ति एक्वा प्रॉडक्ट्स 65, पेरियापलायम रोड, जे सी क्रॉस रोड, शोलोवरम पोस्ट, चेन्नई-600067	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्टि	14543	98
40.	6372067	2003-01-02	मैसर्स लक्ष्मी श्रीनिवास इंडस्ट्रीज सर्वे नं. 241/एए रेडलाकुंता गाँव कोडाड मंडल नलगौडा जिला (आं. प्र.)	43 ग्रेड साधारण पोर्टलैंड सीमेंट (पहला पुनरीक्षण)	08112	89
41.	6372168	2003-01-10	मैसर्स येलग्रीस फूड्स इंडिया एस.एन.23/2 बी गोल्लापल्ली गाँव अलसांदापुरम, वणियम्बाडी-635751	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्टि	14543	98
42.	6372269	2003-01-08	मैसर्स एम के वाटर्स नं. 119, नीरकोमाला पॉल्ट्री फार्म कोडिगेहल्ली मेन रोड बासवानापुरा, बंगलौर 560036	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्टि	14543	98
43.	6372370	2002-01-17	मैसर्स सुदेशी एसोसिएट्स 61-ए, पूनमाल्ली रोड, एकतुथंगल, चेन्नई 600 097	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्टि	14543	98
44.	6372471	2003-12-13	मैसर्स किलोस्कर इलेक्ट्रिक कं. लि., पी.बी.नं. 5555 इंड. सबर्ब राजाजी नगर, बंगलौर	"e" टाइप सुरक्षा के साथ तीन फेजीय प्रेरण मोटर	06381	72
45.	6372572	2003-01-10	मैसर्स न्यूसिफेरा रिन्यूएबल एनर्जी सिस्टम्स राघवेन्द्रा नगर, पीछे-देवानूर चर्च नालंदा कॉन्वेंट पेरालेल रोड तुमकर 572 102	सौर सपाट संग्राहक-विशिष्टि भाग I अपेक्षाएं (पहला पुनरीक्षण)	12933 01	92
46.	6372673	2003-01-14	मैसर्स हिन्दुस्तान फूड प्रॉडक्ट्स 6, पाँचवी स्ट्रीट कुमारन कॉलोनी वडापलानी, चेन्नई-600 026	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्टि	14543	98
47.	6372774	2003-01-03	मैसर्स पेस्सीव एलॉयस प्रा.लि. 10/76-बी अवनाशी रोड अरासूर पोस्ट कोयम्बतूर-641 407	शिरोपरि प्रेषण कार्य के लिए एल्युमीनियम के चालक भाग 4 एल्युमीनियम मिश्रधातु लड़दार चालक एल्युमी-मैग्नी-सिलिकॉन टाइप (तीसरा पुनरीक्षण)	00398 04	94
48.	6372875	2003-01-17	मैसर्स श्री बालाजी वॉटर प्रॉडक्ट्स आर.एस.नं. 381/9बी, 381/9डी त्रिचे मेन रोड पिडागाँम, विल्लुपुरम 605401	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्टि	14543	98

1	2	3	4	5	6	
49.	6372976	2003-01-14	मैसर्स ज्योति ब्रास मैटल वर्क्स 6/128, इंजीनियरिंग कॉलेज रोड, अनन्तपुर 515 002	टॉवर काबले की विशिष्टि भाग 2 अलौह धातु (पांचवां पुनरीक्षण)	00204	02 92
50.	6373069	2003-01-01	मैसर्स सीटी मिनरल्स 2-14-159/24 नल्लापाडू, नल्लापाडू पंचायत गुंटूर 522 009	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्टि	14543	98
51.	6373170	2003-01-10	मैसर्स पीवीएस इंटरप्रासेज तुरकापालाम पेडापलाकालूर (पीओ) गुंटूर ग्रामीण मण्डलम, गुंटूर जिला	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्टि	14543	98
52.	6373271	2003-01-08	मैसर्स जुपीटर केबल्स प्रा.लि., यूनिट-2, प्लॉट नं. ए-15 पार्ट आई डी ए कुंकटपल्ली कुतबुल्लापुर मण्डल, आर.आर. जिला (आ.प्र.) 500 037	शॉट फायरिंग केबल के विशिष्टि (पहला पुनरीक्षण)	05950	84
53.	6373372	2003-01-17	मैसर्स बानीविलास माइन्स एण्ड मिनरलस नं. 153/210/1, रेलवे गोल्लहल्ली, नेलामंगला तालुक, बंगलौर रूरल, बंगलौर-562 123	पैकेजबन्द मिनरल वॉटर (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा) विशिष्टि	14543	98
54.	6373473	2003-01-17	मैसर्स वेंगो एक्वा लैब, 34, 5वां क्रॉस 22वां मेन, विनायक नगर पुत्तेनहल्ली गाँव, जेपी नगर, 5वां फेस, बंगलौर-560078	पैकेजबन्द मिनरल वॉटर प्राकृतिक मिनरल जल के अलावा) विशिष्टि	14543	98
55.	6373574	2003-01-14	मैसर्स वामशी पॉलिमर्स, शेड नं. 51, आईडीए फेस 2, चेरलापल्ली, आर.आर. जिला - 500 051	पेय जल आपूर्ति के लिए उच्च घनत्व वाले पोलिएथाइलीन पाइप (चौथा पुनरीक्षण)	04984	95
56.	6373675	2003-01-16	मैसर्स वामशी पॉलिमर्स शेड नं. 51 आईडीए फेस-2, चेरलापल्ली, आर. आर. जिला-500 051	सिंचाई तंत्र के छिड़काव यंत्र के लिए पालीइथाइलीन पाइप	14151	02 99
57.	6373877	2003-01-10	मैसर्स बागदेवी सोलर सिस्टम्स शेड नं. 6, साइट नं. 45 3रा क्रॉस, 3रा मेन 1स्टेज, इंडस्ट्रियल सबर्ब यशवन्तपुरा, बंगलौर 560 022	सौर सपाट संग्राहक-विशिष्टि भाग 1 अपेक्षाएं (पहला पुनरीक्षण)	12933	01 92
58.	6373978	2002-12-30	मैसर्स गौरी मैच फैक्टरी, एस.नं. 1755/बी, 1757/2बी डी.नं. 394/1ए से ए4 पालापति रोड, कीला थिरुथंगल, शिवकासी यूनियन	डिब्बी बन्द निरापद दियासलाई (दूसरा पुनरीक्षण)	02653	93

[सं. सी.एम डी 1/13 : 11]

एम.० ए० यू० खान, उप महानिदेशक (मुहर)



## MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 21st November, 2003

**S.O. 3323.**—In pursuance of sub-regulation (5) of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :

## SCHEDULE

Sl. No.	Licence No.	Operative Date (Year/Month)	Name & Address of the Party	Title of the Standard	IS No.	Part	Sec.	Year
1	2	3	4	5	6			
1.	6368278	2002-12-16	M/s Leo Foods, 24-60/9 I Floor IDA Uppal Hyderabad	Specification for Hard Boiled Sugar Confectionery (Second Revision)	01008			81
2.	6368379	2002-12-30	M/s Kohinoor Fibre Products PPVI, 254 A Puzhathi Kakkad Kannur Kanpur District-670005	Specification for Rubberized coil sheets for Cushioning (First Revision)	08391			87
3.	6368480	2002-12-30	M/s Andhra Cements Ltd. Durga Nagar (P. O) Visakhapatnam	Specification for Portland Pozzolana Cement Part 1 : Flyash Based (Third Revision)	01489	01		91
4.	6368581	2002-12-26	M/s Manjam Jewellery 58, Bazaar Street Namakkal-637001	Gold and Gold Alloys Jewellery/Artefacts Fineness and Marking Specification (Third Revision)	01417			99
5.	6368682	2002-12-30	M/s Sri Sai Industries 583/2-B, Avinashi Road Civil Aerodrome Post Coimbatore-641014	Submersible Pump Sets (First Revision)	08034			89
6.	6368783	2002-12-30	M/s Sri Sai Industries 583/2-B, Avinashi Road Civil Aerodrome Post Coimbatore-641014	Motors for Sumersible Pump Sets—Specification (First Revision)	09283			95
7.	6368783	2002-12-30	M/s Sri Sai Industries 583/2-B, Avinashi Road Civil Aerodrome Post Coimbatore-641014	Motors for Submersible Pump Sets—Specification (First Revision)	09283			95
8.	6368884	2002-12-26	M/s Tunga PVC Pipes Pvt. Ltd. 134, Bommasandra Indl. Area Hosur Road, Bangalore-562158	Specification for Conduits for Electrical Instalations Part 3 : Rigid Plain Conduits of Insulating Materials	09537	03		83
9.	6368985	2003-01-01	M/s Karnataka Pressure Vessels Ltd. 13-C, Attibele Indl. Area Anekai, Taluk Bangalore-560107	Liquefied Petroleum Gas (LPG) Containers for Automotive use—Specification	14899			90

1	2	3	4	5	6	
10.	6369078	2002-12-30	M/s Manyam Aqua Pvt. Ltd. S.No. 42 Pet Basheerabad Quatabullapur Mandal Rangareddy District	Specification for Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543	98
11.	6369179	2002-12-30	M/s Southern Crystal Water Thaiyur Road Kelambakkam Kancheepuram District-603103	Specification for Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543	98
12.	6369280	2002-12-20	M/s Srivatsa Synthetics P. Ltd. 1/14, Kettanakonda (Village) Ibrahimpattanam (Mandal) Krishna District-521456	Specification for Integrated Cement Water Proofing Compounds (First Revision)	02645	89
13.	6369381	2002-12-24	M/s Deccan Cements Ltd., (Slag Cement Division) Bhavanipuram, Janpahad P.O. Nereducherla Mandal Nalgonda District-508218	Specification for Portland Portland Slag Cement (Fourth Revision)	00455	89
14.	6369482	2002-12-24	M/s Sree Venkatasai Packaging Industries, Unit II Plot Nos. 755 to 757 Subash Nagar Ida Jeedi Mella Hyderabad-500055	General Requirements for Packages of Explosives Part I : Commercial High Explosives (First Revision)	10212 01	86
15.	6369583	2003-01-02	M/s Sister Water 394/3 David Nagar Padappai Sri Perumpudur Taluk-601301	Specification for Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543	98
16.	6369684	2003-01-01	M/s Snageetha Jewellery Chittoor Road Near South Junction Kochi-682016	Gold and Gold Alloys Jewellery/Artefacts-Fineness and Marking—Specification (Third Revision)	01417	99
17.	6369785	2003-01-06	M/s Sapthagiri Aqua Systems Pvt. Ltd. 40-41, Santosh Cottage Vijayanagaram Settupatti Post Dindigul-624314	Specification for Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543	98
18.	6369886	2002-11-20	M/s Merrimack Ymers No. 9, 5th Main Rajaji Nagar Industrial Town A.D. Hauli Rajaji Nagar Bangalore-560079	Antifreeze Coolant- Specification (First Revision)	05759	94
19.	6369987	2002-12-30	M/s Tower India Mineral Water 4/2 A Thiruvallur High Road Puduchatram Village-602107	Specification for Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543	98
20.	6370063	2002-12-23	M/s Indo Precast Industries C-5, Ida Uppalshi Road Hyderabad-500039	Specification for Precast Concrete Manhole Covers and Frames— Part 1 : Covers Part 2 : Frames	12592 01	94

1	2	3	4	5	6	
21.	6370164	2003-01-01	M/s Sri Sabari Industries 203, 100 Feet Road Tatabad (P.O.) Coimbatore-641012	Pumps Regenerative or Clear, Cold Water—Specification (First Revision)	08472	98
22.	6370265	2002-12-30	M/s Jas H20 Net working 93/1A Bajani Coil, Street Athipet Chennai-600058	Specification for Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543	98
23.	6370366	2002-12-12	M/s Mayuri Beverages Plot No. 36 & 37 Sagar Housing Complex Sagar Road Rangareddy District	Specification for Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543	98
24.	6370467	2002-12-02	M/s Manoharlal Jewellers 8-2-674/6/1/A Road No. 13 Banjara Hills Hyderabad-500034	Gold and Gold Alloys, Jewellery/Artefacts-Fitness and Marking-Specification (Third Revision)	01417	99
25.	6370568	2003-01-02	M/s Sai Srinivasa Industries K. Agraharam Jaggayyapet Mandal, Krishna District-521175	Specification for 43 Grade Ordinary Portland Cement (First Revision)	08112	89
26.	6370669	2003-01-06	M/s Amuls Screen & Pumps 6/9 Kunni Naicker Thottam Athipalayam Road Chinnavedampatti Ganapthy (P.O.) Coimbatore-641006	Submersible Pump Sets (First Revision)	08034	89
27.	6370770	2003-01-10	M/s Indhus Mineral Water Manellore (Medu) Madharapakkam P.O. Gummidipoondi Tiruvallur District	Specification for Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543	98
28.	6370871	2003-01-07	M/s BTM Beverages Pvt. Ltd. Sy. No. 124/1B 9th Km. Anchelageri Village Karwar Road Hubli-580024	Specification for Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543	98
29.	6370972	2003-01-10	M/s Sri Selva Muthukumaran Industries 1-2292, Annai Teresa Street Soliamman Nagar Red Hills Chennai-600052	Specification for Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543	98
30.	6371065	2002-12-16	M/s Vamshi Polymers Shed No. 51 Ida Phase-II Cherlapally R. R. District-600051	Irrigation Equipment Sprinkler Pipes- Specification-Part 1 Polyethylene Pipes	14151	01 99
31.	6371166	2003-01-13	M/s Thentral Mineral Water 1/2481, Sivanathi Athithan Nagar Thiruvallur High Road Red Hills Chennai-600052	Specification for Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543	98

1	2	3	4	5	6
32.	6371267	2002-12-30	M/s National Equipment Company 151-B Abbaiah Naidu Layout P.N. Palayam Road Ganapathy P. O. Coimbatore-641006	Motors for Sumersible Pumpsets—Specification (First Revision)	09283 95
33.	6371368	2003-01-10	M/s Soundarya Agencies 9, Marudhu Pandiyar Nagar Kodikalur Karanthattangudi Post Thanjavur-613002	Specification for Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543 98
34.	6371469	2003-01-14	M/s Krishna Agro Foods 217, Old Mahapalipuram Road Sholinganallur, Chennai-600119	Specification for Packaged Drinking Water (Other than Packaged Natural, Mineral Water)	14543 98
35.	6371570	2003-01-13	M/s Bhavani Traders, Plot No. 4 Church Road (Opp. Ponniamman Koil) Injambakkam, Chennai-600041	Specification for Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543 98
36.	6371671	2002-12-26	M/s Davanam Jewellers, 506/507 Avenue Road, Bangalore-560002	Gold and Gold Alloys Jewellery/Artefacts-Fineness and marking specification (Third Revision)	01417 99
37.	6371772	2003-01-02	M/s Jupiter Cables Pvt. Ltd., Unit II, Plot No. A-15 Part IDA, Kukatpally qutbullapur Mandal, R. R. District (A.P.)-500037	Specification for PVC Insulated cables for working Voltages upto and including 1100V (Third Revision)	00694 89
38.	6371873	2003-01-16	M/s R-Vin Aqua Products, New No. 18 Ground Floor, Genga Road, Egmore, Chennai-600008	Specification for Packaged Drinking Water (Other than Packaged natural, Mineral Water)	14543 98
39.	6371974	2003-01-16	M/s Shakti Aqua Products 65, Periya Palayam road JC Cross road Sholovaram Post Chennai-600067	Specification for Packaged Drinking water (Other than Packaged natural Mineral Water)	14543 98
40.	6372067	2003-01-02	M/s Lakshmi Srinivasa Industries Survey No. 241/AA Redlakunta Village Kodad Mandal Nalgonda District (A.P.)	Specification for 43 Grade Ordinary Portland Cement (First Revision)	08112 89
41.	6372168	2003-01-10	M/s Yelgris Foods India S. No. 23/2 B Gollapalli, Village Alasandapuram, Vaniyambadi-635751	Specification for Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543 98
42.	6372269	2003-01-08	M/s M K Waters, No. 119, Neerkomarla Poultry Farm Kodigehalli, Main Road, Basavanapura. Bangalore-560036	Specification for Packaged Drinking water (Other than Packaged natural Mineral Water)	14543 98

1	2	3	4	5	6	
43.	6372370	2003-01-17	M/s Sudesi Associates, 61-A, Poonamallee Road, Ekkatuthangal, Chennai-600097	Specification for Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543	98
44.	6372471	2002-12-13	M/s Kirloskar Electric Co. Ltd. P.B. No. 5555, Indl. Suburb, Rajaji Nagar, Bangalore	3 Phase Induction Motor with type of Protection 'e'	06381	72
45.	6372572	2003-01-10	M/s Nucifera Renewable Energy Systems Raghvendra Nagar Behind Devanur Church Nalanda Convent, Parallel Road Tumkur-572102	Solar Flat Plate Collector Specification Part 1 : Requirements (First Revision)	12933 01	92
46.	6372673	2003-01-14	M/s Hindustan Food Products, 6, Fifth Street Kumaran Colony, Vadapalani, Chennai-600026	Specification for packaged Drinking Water (Other than Packaged Natural, Mineral Water)	14543	98
47.	6372774	2003-01-03	M/s Passive Alloys Pvt. Ltd. 10/76-B Avinashi Road Arasur Post, Coimbatore-641407	Aluminium Conductors for Overhead Transmission Purposes : Part 4: Alluminium Alloys Stranded Conductors (Aluminium Magnesiumsilicon Type) (Third revision)	00398 04	94
48.	6372875	2003-01-17	M/s Sri Balaji Water Products, R.S. No. 381/9B, 381/9D Trichy, Villupuram-605401	Specification for packaged Drinking Water (Other than Packaged Natural, Mineral Water)	14543	98
49.	6372976	2003-01-14	M/s Jyothi Brass Metal Works, 6/128, Engineering College Road, Anantpur-515002	Specification for Tower Bolts Part 2 : Non-Ferrous Metals (Fifth Revision)	00204 02	92
50.	6373069	2003-01-10	M/s Siti Minerals, 2-14-159-24, Nallapadu Nallapadu, Panchayat Guntur-522 009	Specification for packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543	98
51.	6373170	2003-01-01	M/s PVS Enterprises, Turkapalam Pedapalakalur (PO), Guntur Rural, Mandalam, Guntur	Specification for packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543	98
52.	6373271	2003-01-08	M/s Jupiter Cables Pvt. Ltd., Unit II, Plot No. A-15 Part JDA, Kukatpally Qutubllapur Mandal, R. R. District (A.P.)-500037	Specification for Short Firing Cables (For use other than Shafts) (First Division)	05950	84
53.	6373372	2003-01-17	M/s Vanivilas Mines and Minerals, No. 153/210/1 Railway Gollabhai Nelamangala Taluk Bangalore Rural Bangalore-562123	Specification for packaged Drinking Water (Other than Packaged Natural, Minerals Water)	14543	98

1	2	3	4	5	6	
54.	6373473	2003-01-07	M/s. Vengo Aqua Lab 34, 5th Cross 22nd Main Vinayakanagar, Puttenahali Village J. P. Nagar 5th Phase, Bangalore-560 078	Specification for packaged Drinking Water (Other than Packaged Natural Mineral Water	14543	98
55.	6373574	2003-01-14	M/s. Vamshi Polymers, Shed No. 51, IDA Phase-2, Chelrapally R.R. District-500 051	Specification for High Density Polyethylene Pipes for portable water supplies (Forth Revision)	04984	95
56.	6373675	2003-01-16	M/s. Vamshi Polymers, Shed No. 51 IDA Phase-II, Cherlapally, R. R. District-500 051	Irrigation Equipment Sprinkler Pipes- Specification, Part 2 : Quick Coupled Polyethylene Pipes	14151 02	99
57.	6373877	2003-01-10	M/s. Vaagdevi Solar Systems Shed No. 6, Site No. 45 III Cross, III Main, I Stage Industrial Suburb Yeshwanthapura Bangalore-560 022	Solar Flat Plate Collector Specification Part 1 : Requirements (First Revision)	12933 01	92
58.	6373978	2002-12-30	M/s. Gowri Match Factory S. Nos. 1755/2B, 1757/2BD. No. 394/A1 to A4 Palapatti Road Keela Thiruthangal Sivakasi Union.	Safety Matches in Boxes (Second Revision)	02653	93

[No. CMD-1/13 : 11]

M. A. U. KHAN, Dy. Director General (Marks)

नई दिल्ली, 27 नवम्बर, 2003

का.आ. 3324.— भारतीय मानक ब्यूरो विनियम 1987 नियम 7 के के उपनियम (1) के खंड (ख) के अनुसरण में एतद्वारा अधिसूचित किया जाता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे रद्द कर दिए गए हैं और वापस ले लिये गए हैं :—

## अनुसूची

क्रम सं.	रद्द किए गए मानक की संख्या और वर्ष	भारत के राजपत्र भाग 2, खंड 3, उपखंड (ii) में का.आ. संख्या और तिथि प्रकाशित	टिप्पणी
1	2	3	4
1.	आईएस 3700 (भाग 1) : 1972	का.आ. 0115 दिनांक 1975-01-11	आईएस 14901 (भाग 1) : 2001 द्वारा अतिक्रमित
2.	आईएस 3700 (भाग 2) : 1972	का.आ. 0770 दिनांक 1975-03-08	आईएस 14901 (भाग 3) : 2001 द्वारा अतिक्रमित
3.	आईएस 3700 (भाग 3) : 1973	का.आ. 2939 दिनांक 1975-09-06	आईएस 14901 (भाग 2) : 2001 द्वारा अतिक्रमित
4.	आईएस 3700 (भाग 4) : 1968	का.आ. 4599 दिनांक 1968-12-28	आईएस 14901 (भाग 7) : 2001 द्वारा अतिक्रमित
5.	आईएस 3700 (भाग 5) : 1968	का.आ. 4599 दिनांक 1968-12-28	आईएस 14901 (भाग 7) : 2001 द्वारा अतिक्रमित
6.	आईएस 3700 (भाग 6) : 1968	का.आ. 4599 दिनांक 1968-12-28	आईएस 14901 (भाग 7) : 2001 द्वारा अतिक्रमित
7.	आईएस 3700 (भाग 8) : 1970	का.आ. 5032 दिनांक 1971-11-06	आईएस 14901 (भाग 3) : 2001 द्वारा अतिक्रमित

1	2	3	4
8.	आईएस 3700 (भाग 10) : 1982	का.आ. 3451 दिनांक 1986-10-04	आईएस 14901 (भाग 8) : 2001 द्वारा अतिक्रमित
9.	आईएस 3715 (भाग 1) : 1971	का.आ. 0889 दिनांक 1974-04-06	आईएस 14901 (भाग 1) : 2001 द्वारा अतिक्रमित
10.	आईएस 3715 (भाग 2) : 1971	का.आ. 0231 दिनांक 1974-01-26	आईएस 14901 (भाग 2) : 2001 द्वारा अतिक्रमित
11.	आईएस 3715 (भाग 3) : 1971	का.आ. 0115 दिनांक 1975-01-11	आईएस 14901 (भाग 7) : 2001 द्वारा अतिक्रमित
12.	आईएस/आईएसओ 4033 : 1979	—	आईएस 1364 (भाग 6) : 2002 द्वारा अतिक्रमित
13.	आईएस 4400 (भाग 1) : 1967	का.आ. 1367 दिनांक 1968-04-20	आईएस 14901 (भाग 1) : 2001 द्वारा अतिक्रमित
14.	आईएस 4400 (भाग 2) : 1967	का.आ. 2578 दिनांक 1968-07-20	आईएस 14901 (भाग 3) : 2001 द्वारा अतिक्रमित
15.	आईएस 4400 (भाग 3) : 1968	का.आ. 0368 दिनांक 1969-01-25	आईएस 14901 (भाग 2) : 2001 द्वारा अतिक्रमित
16.	आईएस 4400 (भाग 4) : 1981	का.आ. 0223 दिनांक 1986-01-25	आईएस 14901 (भाग 7) : 2001 द्वारा अतिक्रमित
17.	आईएस 4400 (भाग 8) : 1970	का.आ. 3305 दिनांक 1972-01-21	आईएस 14901 (भाग 3) : 2001 द्वारा अतिक्रमित
18.	आईएस 4400 (भाग 10) : 1967	का.आ. 3328 दिनांक 1986-09-27	आईएस 14901 (भाग 8) : 2001 द्वारा अतिक्रमित

[सं. सीएमडी-1/3:7]

एम०ए०यू० खान, उप महानिदेशक (मुहर)

New Delhi, the 27th November, 2003

**S.O. 3324.**—In pursuance of clause (b) of sub-rule (I) of Rule 7 of the Bureau of Indian Standards Rules, it is notified that the Indian Standards, Particulars of which are mentioned in the schedule give hereafter, have been cancelled and stand withdrawn.

**SCHEDULE**

Sl.No.	No. & year of the Indian Standards Cancelled	S.O. No. & Date published in the Gazette of India Part-II, Section-3, Sub-section (ii)	Remarks
1	2	3	4
1.	IS 3700(Pt. 1) : 1972	S.O. 0115 dt. 1975-01-11	Superseded by IS 14901(Pt 1) : 2001
2.	IS 3700(Pt. 2) : 1972	S.O. 770 dt. 1975-03-08	Superseded by IS 14901(Pt 3) : 2001
3.	IS 3700(Pt. 3) : 1973	S.O. 2939 dt. 1975-09-06	Superseded by IS 14901(Pt 2) : 2001
4.	IS 3700(Pt. 4) : 1968	S.O. 4599 dt. 1968-12-28	Superseded by IS 14901(Pt 7) : 2001
5.	IS 3700(Pt. 5) : 1968	S.O. 4599 dt. 1968-12-28	Superseded by IS 14901(Pt 7) : 2001
6.	IS 3700(Pt. 6) : 1968	S.O. 4599 dt. 1968-12-28	Superseded by IS 14901(Pt 7) : 2001
7.	IS 3700(Pt. 8) : 1970	S.O. 5032 dt. 1971-11-06	Superseded by IS 14901(Pt 3) : 2001
8.	IS 3700(Pt. 10) : 1982	S.O. 3451 dt. 1986-10-04	Superseded by IS 14901(Pt 8) : 2001
9.	IS 3715(Pt. 1) : 1971	S.O. 0889 dt. 1974-04-06	Superseded by IS 14901(Pt 1) : 2001
10.	IS 3715(Pt. 2) : 1971	S.O. 0231 dt. 1974-01-26	Superseded by IS 14901(Pt 2) : 2001
11.	IS 3715(Pt. 3) : 1971	S.O. 0115 dt. 1975-01-11	Superseded by IS 14901(Pt 7) : 2001
12.	IS/S.O. 4033 : 1979	Nil	Superseded by IS 1364(Pt 6) : 2002
13.	IS 4400(Pt. 1) : 1967	S.O. 1367 dt. 1968-04-20	Superseded by IS 14901(Pt 1) : 2001



1	2	3	4
14.	IS 4400(Pt. 2) 1967	S.O. 2578 dt. 1968-07-20	Superseded by IS 14901(Pt 3) : 2001
15.	IS 4400(Pt. 3) 1968	S.O. 0368 dt. 1969-01-25	Superseded by IS 14901(Pt 2) : 2001
16.	IS 4400(Pt. 4) 1981	S.O. 0223 dt. 1986-01-25	Superseded by IS 14901(Pt 7) : 2001
17.	IS 4400(Pt. 8) 1970	S.O. 3305 dt. 1972-10-21	Superseded by IS 14901(Pt 3) : 2001
18.	IS 4400(Pt. 10) 1983	S.O. 3328 dt. 1986-09-27	Superseded by IS 14901(Pt 8) : 2001

[No. CMD-I/3 : 7]

M. A. U. KHAN, Dy. Director General (Marks)

नई दिल्ली, 27 नवम्बर, 2003

का.आ. 3325.— भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिमूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

## अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
1	2	3	4
1.	आईएस 228 (भाग 22) : 2003-इस्पात के रासायनिक विश्लेषण की पद्धतियाँ भाग 22 तापीय चालकता पद्धति द्वारा इस्पात में कुल हाइड्रोजन का निर्धारण (हाइड्रोजन 0.1 पीपीएम से 5 पीपीएम)	—	2003-05-31
2.	आईएस 228 (भाग 23) : 2003-इस्पात के रासायनिक विश्लेषण की पद्धतियाँ भाग 23 प्रकाशिक उत्सर्जन स्पेक्ट्रमी मापी द्वारा इस्पात में कुल नाइट्रोजन का निर्धारण (नाइट्रोजन 0.002 से 1.0 प्रतिशत)	—	2003-05-31
3.	आईएस 228 (भाग 24) : 2003-इस्पात के रासायनिक विश्लेषण की पद्धतियाँ भाग 24 अक्रिय गैस संलयन द्वारा इस्पात में नाइट्रोजन का निर्धारण-तापीय चालकता पद्धति (नाइट्रोजन 0.001 से 0.2 प्रतिशत)	—	2003-05-31
4.	आईएस 397 (भाग 0) : 2003-उत्पादन के दौरान गुणता नियंत्रण की प्रणाली भाग 0 नियंत्रण सारणी के चयन के लिए मार्गदर्शिका (पहला पुनरीक्षण)	आईएस 397 : 1999	2003-05-31
5.	आईएस 417 (भाग 1) : 2003-फुटबालों, बॉलीबालों, वास्केटबालों, नेटबालों, थ्रोबालों और वाटर-पोलो बालों-विशिष्ट भाग 1 फुटबाल (चौथा पुनरीक्षण)	आईएस 417 (भाग 1) : 1974	2003-06-30
6.	आईएस 550 (भाग 1) : 2003-तिजोरियाँ भाग 1 विशिष्ट (चौथा पुनरीक्षण)	आईएस 550 (भाग 1) : 1991	2003-07-31
7.	आईएस 616 : 2003-श्रव्य, वीडियो एवं समान इलैक्ट्रॉनिकी उपकरण-सुरक्षा अपेक्षाएँ (तीसरा पुनरीक्षण)	आईएस 616 : 1986	2003-04-30

1	2	3	4
8.	आईएस 940 : 2003-सुवाहम अग्नि-शामक पानी टाइप (गैस कारतूस)-विशिष्ट (चौथा पुनरीक्षण)	आईएस 940 : 1989	2003-05-31
9.	आईएस 1151 : 2003-परिष्कृत चीनी-विशिष्ट (दूसरा पुनरीक्षण)	आईएस 1151 : 1969	2003-06-30
10.	आईएस 1152 : 2003-आइसिंग चीनी-विशिष्ट (दूसरा पुनरीक्षण)	आईएस 1152 : 1976	2003-06-30
11.	आईएस 1191 : 2003-उत्प्लव घनत्व निर्धारण-पारिभाषिक शब्दावली और प्रतीक (दूसरा पुनरीक्षण)	आईएस 1191 : 1971	2003-04-30
12.	आईएस 1559 (भाग 5) : 2003-फेरोसिलिकॉन का रासायनिक विश्लेषण भाग 5 फेरोसिलिकॉन में एल्युमिनियम का निर्धारण (एल्युमिनियम 0.05 से 1.75 प्रतिशत) (दूसरा पुनरीक्षण)	आईएस 1559 (भाग 5) : 1982	2003-05-31
13.	आईएस 1855 : 2003-खानों में वेष्टन द्वारा और व्यक्ति-रोहण द्वारा दुलाई के लिए लड़दार इस्पात के तार के रस्से-विशिष्ट (दूसरा पुनरीक्षण)	आईएस 1855 : 1977	2003-07-31
14.	आईएस 2721 : 2003-जस्तीकृत इस्पात चैन लिंक जेगले का कपड़ा-विशिष्ट (दूसरा पुनरीक्षण)	आईएस 2721 : 1964	2003-07-31
15.	आईएस 3025 (भाग 56) : 2003-जल और अपशिष्ट जल के नमूने लेने तथा परीक्षण (भौतिक एवं रासायनिक) की पद्धतियाँ भाग 56 सेलेनियम (पहला पुनरीक्षण)	—	2003-06-30
16.	आईएस 3096 : 2003-महीन ग्रेड पैलेडियम-विशिष्ट (पहला पुनरीक्षण)	आईएस 3096 : 1965	2003-06-30
17.	आईएस 3633 : 2003-काली चाय-विशिष्ट (दूसरा पुनरीक्षण)	आईएस 3633 : 1972	2003-06-30
18.	आईएस 3917 : 2003-स्कूप टाइप बैंड सामग्री-विशिष्ट (पहला पुनरीक्षण)	आईएस 3917 : 1966	2003-06-30
19.	आईएस 4351 : 2003-स्टील के दरवाजों के फ्रेम-विशिष्ट (दूसरा पुनरीक्षण)	आईएस 4351 : 1976	2003-05-31
20.	आईएस 4392 : 2003-वस्त्रादि-हस्त निर्मित नमदे-विशिष्ट (पहला पुनरीक्षण)	आईएस 4392 : 1967	2003-04-30
21.	आईएस 4622 : 2003-स्थिर-व्हील गेट के संरचनात्मक डिजाइन की सिफारिशें (तीसरा पुनरीक्षण)	आईएस 4622 : 1992	2003-05-31

1	2	3	4
22.	आईएस 4926 : 2003-तैयार कांक्रीट-रीति संहिता (दूसरा पुनरीक्षण)	आईएस 4926 : 1976	2003-05-31
23.	आईएस 4989 (भाग 4) : 2003-हाइड्रोजन और ध्रुवी विलायक की आग बुझाने के लिए बहुप्रयोगी जलीय फिल्म बनाने वाले झाग एवं सांद्र-विशिष्टि	—	2003-05-31
24.	आईएस 5542 : 2003-तुफान विश्लेषण की मार्ग दर्शिका (पहला पुनरीक्षण)	आईएस 5542: 1969	2003-05-31
25.	आईएस 5800 : 2003-पूरी तरह भौतिक तरीकों द्वारा संरक्षित संतरे का रस-विशिष्टि (पहला पुनरीक्षण)	आईएस 5800 : 1979	2003-06-30
26.	आईएस 5975 : 2003-कच्ची चीनी-विशिष्टि (पहला पुनरीक्षण)	आईएस 5975: 1970	2003-06-30
27.	आईएस 5982 : 2003-रोपित श्वेत चीनी-विशिष्टि (पहला पुनरीक्षण)	आईएस 5982: 1970	2003-06-30
28.	आईएस 6200 (भाग 1) : 2003-सार्थकता के लिए सांख्यिकीय परीक्षण भाग 1 नार्मल, टी. और एफ-परीक्षण (तीसरा पुनरीक्षण)	आईएस 6200(भाग1): 1995	2003-06-30
29.	आईएस 6347 : 2003-वस्त्रादि-मछली पकड़ने के लिए पोलिएथाइलीन आईएस 6347: 1971 मोनोफिलामेंट की सुतली-विशिष्टि (पहला पुनरीक्षण)		2003-06-30
30.	आईएस 6812 : 2003-घुटने के जोड़ों, घुटनों से नीचे के कृत्रिम अंग रोपण के लिए एकाक्ष की विशिष्टि (दूसरा पुनरीक्षण)	आईएस 6812:1972	2003-07-31
31.	आईएस 7016 (भाग 9) : 2003-लेपित एवं उपचारित कपड़े की परीक्षण पद्धतियां भाग 9 रबड़ अथवा प्लास्टिक-लेपित कपड़ा- ब्लॉकिंग प्रतिरोधिता ज्ञात करना (दूसरा पुनरीक्षण)	आईएस 7016 (भाग 9):1988	2003-06-30
32.	आईएस 7016 (भाग 13) : 2003-लेपित एवं उपचारित कपड़े की परीक्षण पद्धतियां भाग 13 रबड़ अथवा प्लास्टिक-लेपित कपड़ा- सिल्वट प्रतिरोधिता ज्ञात करना (पहला पुनरीक्षण)	आईएस 7016 (भाग 13):1987	2003-06-30
33.	आईएस 7016 (भाग 14) : 2003-लेपित एवं उपचारित कपड़े की परीक्षण पद्धतियां भाग 14 रबड़ अथवा प्लास्टिक-लेपित कपड़ा- निम्न ताप प्रभाव परीक्षण (पहला पुनरीक्षण)	आईएस 7016 (भाग 14):1987	2003-06-30
34.	आईएस 7356 (भाग 2) : 2003-मिट्टी और सफ़िल बांधों में दाब मापों के लिए संस्थापन, प्रेषण तथा रख-रखाव की रीति संहिता भाग 2 दोहरी ट्यूब वाले द्विचालित (दूसरा पुनरीक्षण)	आईएस 7356 (भाग 2):1993	2003-04-30

1	2	3	4
35.	आईएस 7373 : 2003-निचले अंगों के लिए कृत्रिम अंग रोपण फिटमेंट के लिए कूल्हा विसहरण जोड़ इकाई-विशिष्टि (दूसरा पुनरीक्षण)	आईएस 7373:1985	2003-05-31
36.	आईएस 7533 : 2003-वस्त्रादि-मछली पकड़ने के लिए पोलिएमाइड (नाइलन) मोनोफिलामेंट की लाइन-विशिष्टि (पहला पुनरीक्षण)	आईएस 7533:1975	2003-06-31
37.	आईएस 7732 : 2003-पूरी तरह भौतिक तरीकों द्वारा संरक्षित सेब का रस-विशिष्टि (पहला पुनरीक्षण)	आईएस 7732:1975	2003-05-31
38.	आईएस 8331 : 2003-वस्त्रादि-अंगोला शर्टिंग-विशिष्टि (दूसरा पुनरीक्षण)	आईएस 8331:1993	2003-06-30
39.	आईएस 8389 : 2003-वर्षामापी, रिकार्डिंग टाइप का संस्थापन और उपयोग-रीति संहिता (दूसरा पुनरीक्षण)	आईएस 8389:1983	2003-05-31
40.	आईएस 8713 : 2003-पूरी तरह भौतिक तरीकों द्वारा संरक्षित आम का रस-विशिष्टि (पहला पुनरीक्षण)	आईएस 8713:1978	2003-05-31
41.	आईएस 8833 : 2003-कोको बीज-नमी की मात्रा ज्ञात करना (सामान्य पद्धति) (पहला पुनरीक्षण)	आईएस 8833:1978	2003-04-30
42.	आईएस 9314 : 2003-कोको बीज-नमूना लेना (पहला पुनरीक्षण)	आईएस 9314:1979	2003-04-30
43.	आईएस 9537 (भाग 8) : 2003-विद्युत संस्थापनों के लिए तार नालियां-विशिष्टि भाग 8 एल्युमिनियम मिश्रधातु की दृढ़ चूड़ी रहित तार नालियां	आईएस 9314:1979	2003-04-30
44.	आईएस 9755 : 2003-वस्त्रादि-उर्वरकों की भराई के लिए उच्च घनत्व पोलिइथाइलीन (एस.डी.पी.ई.)/पोली-प्रोपाइलीन (पी.पी.)-विशिष्टि (चौथा पुनरीक्षण)	आईएस 9755 :1999	2003-06-30
45.	आईएस 10085 : 2003-जीरकन आटा अथवा रेत का रासायनिक विश्लेषण (पहला पुनरीक्षण)	आईएस 10085 :1982	2003-06-30
46.	आईएस 10434 (भाग 1) : 2003-कंक्रीट और चिनाई वाले बाँधों में विरूपण मापन युक्तियों के स्थापन, रख-रखाव और प्रेक्षण की मार्गदर्शिका भाग 1 रोधी किस्म के जाइमीटर (पहला पुनरीक्षण)	आईएस 10434 (भाग 1) : 1982	2003-04-30
47.	आईएस 12664 (भाग 1) : 2003-कृत्रिम अंग-निचले अग्रों में कृत्रिम अंग रोपण के लिए सैशफुट (पैर) भाग 1 डिजाइन और आयाम (पहला पुनरीक्षण)	आईएस 12664 (भाग 1) : 1989	2003-07-31

1	2	3	4
48.	आईएस 12933 (भाग 1) : 2003-सौर सपाट पट्टिका संग्राहक-विशिष्ट भाग 1 अपेक्षाएँ (दूसरा पुनरीक्षण)	आईएस 12933 (भाग 1) : 1992	2003-06-30
49.	आईएस 12933 (भाग 2) : 2003-सौर सपाट पट्टिका संग्राहक-विशिष्ट भाग 2 घटक (दूसरा पुनरीक्षण)	आईएस 12933 (भाग 2) : 1992	2003-06-30
50.	आईएस 12933 (भाग 3) : 2003-सौर सपाट पट्टिका संग्राहक-विशिष्ट भाग 3 मापन उपकरण (पहला पुनरीक्षण)	आईएस 12933 (भाग 3) : 1990	2003-06-30
51.	आईएस 12933 (भाग 5) : 2003-सौर सपाट पट्टिका संग्राहक-विशिष्ट भाग 5 परीक्षण पद्धति (दूसरा पुनरीक्षण)	आईएस 12933 (भाग 5) : 1992	2003-07-31
52.	आईएस 13252 : 2003-सूचना प्रौद्योगिकी उपस्कर-सुरक्षा-सामान्य अपेक्षाएँ (पहला पुनरीक्षण)	आई एस 13252 : 1992	2003-04-30
53.	आईएस 13452 (भाग 5) : 2003-फेरोक्रोमियम का रासायनिक विश्लेषण भाग 5 उच्च कार्बन फेरोक्रोमियम/चार्जक्रोमियम में डाइक्रोमेट अनुमापन द्वारा क्रोमियम ज्ञात करना (पहला पुनरीक्षण)	आईएस 13452 (भाग 5) : 1992	2003-04-30
54.	आईएस 13452 (भाग 7) : 2003-फेरोक्रोमियम का रासायनिक विश्लेषण भाग 7 फेरोक्रोमियम/चार्जक्रोमियम में क्षारमितीय पद्धति द्वारा फासफोरस ज्ञात करना	—	2003-04-30
55.	आईएस 14252 : 2003-वस्त्रादि-उच्च घनत्व वाली पोलिइथाईलीन (एच.डी.पी.ई.)/पोली प्रोपाईलीन (पी.पी.) से बने रेत भरने के बोरे-विशिष्ट (पहला पुनरीक्षण)	आईएस 14252 : 1995	2003-07-31
56.	आईएस 15086 (भाग 3) : 2003-प्रोत्कर्ष निरोधक भाग 3 प्रोत्कर्ष निरोधक के लिए कृत्रिम प्रदूषण परीक्षण	—	2003-07-31
57.	आईएस 15140 : 2003-स्वचल वाहन-सुरक्षा पेटी समुच्चय-विशिष्ट	—	2003-05-31
58.	आईएस 15275 : 2003-ताले-विशिष्ट	आईएस 275, आईएस 1018 आईएस 4230, आईएस 4231 और आईएस 12197	2003-04-30
59.	आईएस 15293 : 2003-वायु आकाशीय-नट, सेल्फ लॉकिंग, 425° से., अथवा कम के अधिकतम प्रचालन तापमान सहित-प्रापण विशिष्ट	—	2003-04-30
60.	आईएस 15303 : 2003-इलेक्ट्रोथर्मल ऐटोमिक ऑब्जोरपशन स्पेक्ट्रोमेटरी पद्धति द्वारा पानी में एन्टीमनी, लोहा व सेलेनियम ज्ञात करना	—	2003-05-31

1	2	3	4
61.	आईएस 15305 ( भाग 3 ) : 2003-प्राकृतिक गैस-संपीडन गुणक का परिकलन भाग 3 गुणधर्म का उपयोग करते हुए परिकलन	आई एस 275, आई एस 1018 आईएस 4230, आईएस 4231 और आईएस 12197	2003-04-30
62.	आईएस 15321 : 2003-गालित धातु के स्प्लैश रक्षी हुड-विशिष्ट	—	2003-05-31
63.	आईएस 15322 : 2003-कण फिल्टर में प्रयुक्त क्षसन संरक्षी उपस्कर-विशिष्ट	—	2003-06-30
64.	आईएस 15323 : 2003-धसित्र संरक्षी उपस्कर में प्रयुक्त गैस/ फिल्टर और संयुक्त फिल्टर-विशिष्ट	—	2003-06-30
65.	आईएस 15324 : 2003-पोत निर्माण-हवा से स्टार्ट होने वाले तंत्र का चयन एवं परीक्षण-रीति संहिता	—	2003-06-30
66.	आईएस 15325 : 2003-जड़ित स्वचलित उच्च एवं मध्यम गति की जल फुहार प्रणालियों के डिजाइन और संस्थापन की रीति संहिता	—	2003-06-30
67.	आईएस 15326 ( भाग 1 ) : 2003-वैलिंग हेतु गुणता अपेक्षाएँ- धात्विक सामग्री की संलयन वैलिंग भाग 1 चयन एवं उपयोग के मार्गदर्शी सिद्धान्त	—	2003-06-30
68.	आईएस 15326 ( भाग 2 ) : 2003-वैलिंग हेतु गुणता अपेक्षाएँ- धात्विक सामग्री की संलयन वैलिंग भाग 2 गृहत गुणता अपेक्षाएँ	—	2003-06-30
69.	आईएस 15326 ( भाग 3 ) : 2003-वैलिंग हेतु गुणता अपेक्षाएँ धात्विक सामग्री की संलयन वैलिंग भाग 3 मानक गुणता अपेक्षाएँ	—	2003-06-30
70.	आईएस 15326 ( भाग 4 ) : 2003-वैलिंग हेतु गुणता अपेक्षाएँ- धात्विक सामग्री की संलयन वैलिंग भाग 4 प्राथमिक गुणता अपेक्षाएँ	—	2003-06-30
71.	आईएस 15327 : 2003-वैलिंग समन्वय-कार्य एवं दायित्व	—	2003-05-31
72.	आईएस 15328 : 2003-दाब-रहित भूमिगत जल निकास एवं भवनों के बाहर मल-जल व्यवस्था में प्रयुक्त अप्लास्टिकृत पॉलीविनायल क्लोराईड ( पी.वी.सी.-यू. ) पाइपें-विशिष्ट	—	2003-07-31
73.	आईएस 15336 : 2003-वस्त्रादि-हौजरी के लिए एक्रिलिक धागा-विशिष्ट	—	2003-05-31
74.	आईएस 15337 : 2003-मृदु इस्पात भूमिगत पाइप लाइनों की संरक्षा के लिए कोलतार आधारित संरक्षारणरोधी फीता-विशिष्ट	—	2003-05-31
75.	आईएस 15338 : 2003-प्रत्यक्ष रीडिंग प्रकाशिक उत्सर्जन निर्वात स्पेक्ट्रोमीटर द्वारा ढलवा लोहे का स्पेक्ट्रोमैट्रिक विश्लेषण-प्वाइंट टू प्लेन तकनीक	—	2003-05-31
76.	आईएस 15339 : 2003-जन पुस्तकालय-मार्गदर्शी सिद्धान्त	—	2003-07-31
77.	आईएस 15340 : 2003-कॉयर फैल्ट-विशिष्ट	—	2003-06-31
78.	आईएस 15345 : 2003-फेम रहित दरवाजे और खिड़कियों के संस्थापन-रीति संहिता	—	2003-05-31

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79.	आईएस 15346 : 2003-पनीर/छैना की संवेदनात्मक मूल्यांकन विधि	आईएस 275, आईएस 1018 आईएस 4230, आईएस 4231 और आईएस 12197	2003-05-31
80.	आईएस 15347 : 2003-माल्टेड मिल्क फूड-संवेदनात्मक मूल्यांकन विधि	—	2003-05-31
81.	आईएस 15348 : 2003-श्रीखण्ड की संवेदनात्मक मूल्यांकन विधि	—	2003-05-31
82.	आईएस 15349 : 2003-आईसक्रमी-संवेदनात्मक मूल्यांकन विधि	—	2003-05-31
83.	आईएस 15350 : 2003-स्वचल वाहन-प्रज्वलन प्रणाली-परीक्षण पद्धति	—	2003-06-30
84.	आईएस 15352 : 2003-खुले प्रणालियों में द्रव प्रवाह मापन-जलमितीय नौकाओं के लिए स्थिति आबद्ध उपस्कर	—	2003-05-31
85.	आईएस 15353 : 2003-वियरों और फ्लूमों द्वारा खुले प्रणालियों में द्रव प्रवाह मापन—V—आकार विस्तृत शिखर वियर	—	2003-05-31
86.	आईएस 15354 : 2003-एक बार उपयोग के लिए परीक्षण दस्ताने-विशिष्टि	—	2003-07-31
87.	आईएस 15355 : 2003-द्रवित पेट्रोलियम गैस (एल पी जी) मोटर वाहनों के लिए रबड़ हौज़ और हौज़ समुच्चय-विशिष्टि	—	2003-07-31
88.	आईएस 15356 : 2003-एसिटएलडीहाईड-विशिष्टि	—	2003-06-30
89.	आईएस 15357 (भाग 1) : 2003-फोटोग्राफी-अन्दर के कमरों में प्रोजेक्शन भाग 1 स्थिर प्रोजेक्टरों के लिए स्क्रीन प्रदीप्ति परीक्षण	—	2003-06-30
90.	आईएस 15357 (भाग 2) : 2003-फोटोग्राफी-अन्दर के कमरों में प्रोजेक्शन भाग 2 स्थिर और वीडियो प्रोजेक्शनों के लिए स्क्रीन प्रदीप्ति परीक्षण	—	2003-06-30
91.	आईएस 15357 (भाग 3) : 2003-फोटोग्राफी-अन्दर के कमरों में प्रोजेक्शन भाग 3 संचरण प्रोजेक्शनों स्क्रीन का वर्गीकरण और उनके संचरण दीप्ति स्तरों का मापन	—	2003-06-30
92.	आईएस 15358 : 2003-खुले प्रणालियों में द्रव प्रवाह मापन-हिम अवस्थाओं के अन्दर प्रवाह मापन	—	2003-07-31
93.	आईएस 15359 : 2003-उत्प्लव घनत्वमापी निर्धारण-ज्वरीय प्रणालियों में निलंबित अवसाद परिवहन मापन	—	2003-07-31
94.	आईएस 15360 : 2003-खुले चैनलों में द्रव प्रवाह के मापन-बैड सामग्री के नमूने लेना	—	2003-05-31
95.	आईएस 15361 : 2003-कच्चा प्राकृतिक रबड़-धारीदार धूमायित पट्टियाँ-मार्गदर्शिका	—	2003-07-31
96.	आईएस 15366 : 2003-रंग रोगन उद्योग के लिए डोलोमाइट-विशिष्टि	—	2003-07-31
97.	आईएस 15368 : 2003-घरेलू और ऐसे ही प्रयोजनों के लिए केबल रील	—	2003-07-31
98.	आईएस 15369 : 2003-वाल्टस (कोप-कक्ष) की संरचना की रीति संहिता	—	2003-07-31



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99.	आईएस 15377 : 2003-डायरेक्ट-टू-होम सेवाओं के लिए डिजिटल सैट टॉप बॉक्स-विशिष्ट	—	2003-06-30
100.	आईएस 15386 : 2003-दाबकृत सिंचाई पद्धतियाँ-रेखीय (ग्राफिक) प्रतीक	—	2003-06-30
101.	आईएस 15391 : 2003-अतप्त बेल्लित गैर-दिशात्मक विद्युत इस्पात की चद्दर एवं पत्ती-अर्ध-प्रक्रमित प्ररूप-विशिष्ट	—	2003-07-31
102.	आईएस 15392 : 2003-खाद्य पैकेजबन्दी के लिए एल्युमिनियम एवं एल्युमिनियम मिश्रधातु से बनी अनावृत पत्ती-विशिष्ट	—	2003-07-31

इन भारतीय मानकों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चैन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[ सं. सीएमडी-1/13 : 2 ]

एम०ए०यू० खान, उप महानिदेशक (मुहर)

New Delhi, the 27th November, 2003

**S. O. 3325.**—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

**THE SCHEDULE**

Sl. No.	No. & Year of the Indian Standards Established	No. & Year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
1	2	3	4
1.	IS 228 (pt. 22) : 2003— Methods of chemical analysis of steels Part 22 : Determination of total hydrogen in steel by thermal conductivity method (hydrogen 0.1 ppm to 50 ppm)	—	2003-05-31
2.	IS 228 (Part. 23) : 2003— Methods of chemical analysis of steels Part 23 : Determination of total nitrogen in steel by optical emission spectrometer (Nitrogen 0.002 to 1.0. percent)	—	2003-05-31
3.	IS 228 (Part. 24) : 2003— Methods of chemical analysis of steels Part 24 : Determination of nitrogen in steel by inert gas fusion thermal conductivity method (Nitrogen 0.001 to 0.2. percent)	—	2003-05-31
4.	IS 397 (Part. 0) : 2003— Methods for statistical quality control during production Part 0 : Guidelines for selection of control charts (First Revision)	IS 397 : 1999	2003-05-31

1	2	3	4
5.	IS 417 (Part. 1) : 2003— Footballs, volleyballs, basketballs, netballs, throwballs and water— polo balls—specification Part 1 : Footballs (Fourth Revision)	IS 417 (Pt 1) : 1974	2003-06-30
6.	IS 550 (Part. 1) : 2003— Safes Part 1 : Specification (Fourth Revision)	IS 550 (Pt 1) : 1991	2003-07-31
7.	IS 616 : 2003— Audio, video and similar electronic apparatus— safety requirements (Third Revision)	IS 616 : 1986	2003-04-30
8.	IS 940 : 2003— Portable fire extinguisher, water type (gas cartridge)—specification (Fourth Revision)	IS 940 : 1989	2003-05-31
9.	IS 1151 : 2003— Refined sugar—specification (Second Revision)	IS 1115 : 1969	2003-06-30
10.	IS 1152 : 2003— Icing sugar—specification (Second Revision)	IS 1152 : 1992	2003-06-30
11.	IS 1191 : 2003— Hydrometric determinations—vocabulary and symbols (Second Revision)	IS 1191 : 1971	2003-04-30
12.	IS 1559 (Pt. 5) : 2003— Chemical analysis of ferrosilicon Part 5 : (aluminium 0.05 to 1.75 percent) (Second Revision)	IS 1559 (Pt 5) : 1982	2003-05-31
13.	IS 1855 : 2003— Standed steel wire ropes for winding and man—riding haulages in mines—specification (Second Revision)	IS 1855 : 1977	2003-07-31
14.	IS 2721 : 2003— Galvanized steel chain link fence fabric— specification (Second Revision)	IS 2721 : 1964	2003-07-31
15.	IS 3025 (Pt 56) : 2003— Methods of sampling and test (physical and chemical) for water and wastewater Part 56 : Selenium (First Revision)	—	2003-06-30
16.	IS 3096 : 2003— Fine grade palladium—specification (First Revision)	IS 3096 : 1965	2003-06-30

1	2	3	4
17.	IS 3633 : 2003— Black tea—specification (Second Revision)	IS 3633: 1972	2003-06-30
18.	IS 3917 : 2003— scoop type bed material samplers— specification (First Revision)	IS 3917 : 1966	2003-06-30
19.	IS 4351 : 2003— Steel door frames—specification (Second Revision)	IS 4351 : 1976	2003-05-31
20.	IS 4392 : 2003— Textiles—Hand-made NAMDHAS— specification (First Revision)	IS 4392 : 1967	2003-04-30
21.	IS 4622 : 2003— Recommendations for structural design of fixed—wheel gates (Third Revision)	IS 4622 : 1992	2003-05-31
22.	IS 4926 : 2003— Ready—mixed concrete—code of practice (Second Revision)	IS 4926 : 1976	2003-05-30
23.	IS 4989 (Pt. 4) : 2003— Multipurpose aqueous film forming foam liquid concentrate for extinguishing hydrocarbon and polar solvent fires— specification	—	2003-05-31
24.	IS 5542 : 2003— Guide for storm analysis (First Revision)	IS 5542 : 1969	2003-05-31
25.	IS 5800 : 2003— Orange juice preserved exclusively by physical means—specification	IS 5800 : 1979	2003-07-30
26.	IS 5975 : 2003— Raw Sugar—Specification (First Revision)	IS 5975 : 1970	2003-06-30
27.	IS 5982 : 2003— Plantation white sugar—Specification (First Revision)	IS 5982 : 1970	2003-06-30
28.	IS 6200 (Pt 1) : 2003— Statistical tests of significance Part 1 : Normal T—AND F—tests (Third Revision)	IS 6200 (Pt 1) : 1995	2003-06-30
29.	IS 6347 : 2003— Textiles—polyethylene monofilament twines for fishing—Specification (First Revision)	IS 6347 : 1971	2003-06-30
30.	IS 6812 : 2003— Knee joint, uniaxial for below knee pros— theses—Specification (Second Revision)	IS 6812 : 1972	2003-07-31

1	2	3	4
31.	IS 7016 (Pt 9) : 2003— Methods of test for coated and treated fabrics Part 9 : Rubber—or plastics—coated fabrics—determination of blocking resistance (Second Revision)	IS 7016 (Pt 9) : 1988	2003-06-30
32.	IS 7016 (Pt 13) : 2003— Methods of test for coated and treated fabrics Part 13 : Rubber—or plastics—coated fabrics—determination of crush resistance (First Revision)	IS 7016 (Pt 13) : 1987	2003-06-30
33.	IS 7016 (Pt 14) : 2003— Methods of test for coated and treated fabrics Part 14 : Rubber—or plastics—coated fabrics—low temperature impact test (First Revision)	IS 7016 (Pt 14) : 1987	2003-06-30
34.	IS 7356 (Pt 2) : 2003— Installation, observation and maintenance of instruments for pore pressure measurements in earth and rockfill dams—code of practice Part 2: Twin tube hydraulic piezometers (Second Revision)	IS 7356 (Pt 2) : 1993	2003-04-30
35.	IS 7373 : 2003— Hip disarticulation joint unit for lower limb prosthetic fitments—Specification (Second Revision)	IS 7373 : 1985	2003-05-31
36.	IS 7533 : 2003— textiles—polyamide (nylon) monofilament line for fishing—Specification (First Revision)	IS 7533 : 1975	2003-06-30
37.	IS 7732 : 2003— Apple juice preserved exclusively by physical means—Specification (First Revision)	IS 7732 : 1975	2003-05-31
38.	IS 8331 : 2003— Textiles—angora shirting—Specification (Second Revision)	IS 8331 : 1993	2003-06-30
39.	IS 8389 : 2003— Installation and use of raingauges, recording—code of practice (Second Revision)	IS 8389 : 1983	2003-05-31
40.	IS 8713 : 2003— Mango juice preserved exclusively by physical means—Specification (First Revision)	IS 8713 : 1978	2003-05-31

1	2	3	4
41.	IS 8833 : 2003— Cocoa beans—determination of moisture content (routine method) (First Revision)	IS 8833 : 1978	2003-04-30
42.	IS 9314 : 2003— Cocoa beans—sampling (First Revision)	IS 9314 : 1979	2003-04-30
43.	IS 9537 (Pt. 8) : 2003— Conduits for electrical installations— Specification Part 8 : Rigid non-threadable conduits of aluminium alloy	—	2003-04-30
44.	IS 9755 : 2003— Textiles—High density polyethylene (HDPE)/propylene (PP) woven sacks for packing fertilizers—Specification (Fourth Revision)	IS 9755 : 1999	2003-06-30
45.	IS 10085 : 2003— Chemical analysis of zircon flour or sand (First Revision)	IS 10085 : 1982	2003-06-30
46.	IS 10434 (Pt 1) : 2003— Installation, maintenance and observation of deformation measuring devices in concrete and masonry dams—guidelines Part 1: Resistance type jointmeters (First Revision)	IS 10434 (Pt 1) : 1982	2003-04-30
47.	IS 12664 (Pt 1) : 2003— Artificial limbs—Sach foot for lower extremity prostheses Part 1 : Design and dimensions (First Revision)	IS 12664 (Pt 1) : 1989	2003-07-31
48.	IS 12933 (Pt 1) : 2003— Solar flat plate collector—Specification Part 1 : Requirements (Second Revision)	IS 12933 (Pt 1) : 1992	2003-06-30
49.	IS 12933 (Pt 2) : 2003— Solar flat plate collector—Specification Part 2 : Components (Second Revision)	IS 12933 (Pt 2) : 1992	2003-06-30
50.	IS 12933 (Part 3) : 2003— Solar flat plate collector—Specification Part 3: Measuring instruments (First Revision)	IS 12933 (Pt 3) : 1990	2003-06-30
51.	IS 12933 (Pt 5) : 2003— Solar flat plate collector—Specification Part 5: Test, Methods (Second Revision)	IS 12933 (Pt 5) : 1990	2003-07-31
52.	IS 13252 : 2003— Information technology equipment—safety— general requirements (First Revision)	IS 13252 : 1992	2003-04-30

1	2	3	4
53.	IS 13452 (Pt 5) : 2003— Chemical analysis of ferrochromium Part 5: Determination of chromium in high carbon ferrochromium/chargechrome by dichromate titration (First Revision)	IS 13452 (Pt 5) : 1992	2003-04-30
54.	IS 13452 (Part 7) : 2003— Chemical analysis of ferrochromium Part 7: Determination of phosphorus in ferrochromium/chargechrome by alkalimetric method	—	2003-04-30
55.	IS 14252 : 2003— Textiles—High density polyethylene (HDPE)/polypropylene (PP) woven sack for filling sand—Specification (First Revision)	IS 14252 : 1995	2003-07-31
56.	IS 15086 (Pt. 3) : 2003— Serge arreeters Part 3 : Artificial pollution Testing of surge arresters	—	2003-07-31
57.	IS 15140 : 2003— Automotive vehicles— Safety belt assembly— Specification	—	2003-05-31
58.	IS 15275 : 2003— Padlocks—Specification	IS 275, IS 1018 IS 4230, IS 4231 & IS 1297	2003-04-30
59.	IS 15293 : 2003— Aerospace—nuts, self— locking, with maximum operating temperature less than or equal to 425° C—procurement Specification	—	2003-04-30
60.	IS 15303 : 2003— Determination of antimony, iron and selenium in water by electrothermal atomic absorption spectrometric method	—	2003-05-31
61.	IS 15305 (Pt. 3) : 2003— Natural gas—calculation of compression factor Part 3 : Calculation using physical properties	—	2003-04-30
62.	IS 15321 : 2003— Molten metal splash protective hoods—Specification	—	2003-05-31
63.	IS 15322 : 2003— Particle filters used in respiratory protective equipment— Specification	—	2003-06-30
64.	IS 15323 : 2003— Gas filters and combined filters used in respiratory protective equipment—Specification	—	2003-06-30

1	2	3	4
65.	IS 15324 : 2003— Ship building—selection and testing of air starting systems— code of practice	—	2003-06-30
66.	IS 15325 : 2003— Design and installation of fixed automatic high and medium velocity water spray system— code of practice	—	2003-06-30
67.	IS 15326 (Pt. 1) : 2003— Quality requirements for welding— fusion welding of metallic materials Part 1 : Guidelines for selection and use	—	2003-06-30
68.	IS 15326 (Pt. 2) : 2003— Quality requirements for welding— fusion welding of metallic materials Part 2 : Comprehensive quality requirements	—	2003-06-30
69.	IS 15326 (Pt. 3) : 2003— Quality requirements for welding— fusion of metallic materials Part 3 : Standards quality requirements	—	2003-06-30
70.	IS 15326 (Pt. 4) : 2003— Quality requirements for welding of metallic materials Part 4 : Elementary quality requirements	—	2003-06-30
71.	IS 15327 : 2003— Welding coordination— task and responsibilities	—	2003-05-31
72.	IS 15328 : 2003— Unplasticized non-pressure polyvinyl chloride (pvc-u) pipes for use in underground drainage and sewerage systems— specification	—	2003-07-31
73.	IS 15336 : 2003— Textiles—Acrylic yarn for hosiery— specification	—	2003-05-31
74.	IS 15337 : 2003— Coal tar based anticorrosion tape for protection of underground mild steel pipelines—specification	—	2003-05-31
75.	IS 15338 : 2003— Spectrometric analysis of cast iron by direct reading optical emission vacuum spectrometer—point to plane technique	—	2003-05-31

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76.	IS 15339 : 2003— Public library—guidelines	—	2003-07-31
77.	IS 15340 : 2003— Cair felt—specification	—	2003-06-30
78.	IS 15345 : 2003— Installation of frameless door and window shutters—code of practice	—	2003-05-31
79.	IS 15346 : 2003— Method for sensory evaluation of panner/chhana	—	2003-05-31
80.	IS 15347 : 2003— Malted milk food—method for sensory evaluation	—	2003-05-31
81.	IS 15348 : 2003— Method for sensory evaluation of shrikhand	—	2003-05-31
82.	IS 15349 : 2003— Ice cream—method for sensory evaluation	—	2003-05-31
83.	IS 15350 : 2003— Automotive vehicles—ignition systems—methods of test	—	2003-05-31
84.	IS 15352 : 2003— Liquid flow measurement in open channels—position fixing equipment for hydrometric boats	—	2003-05-31
85.	IS 15353 : 2003— Liquid flow measurement in open channels by weirs and flumes—v— shaped broad—crested weirs	—	2003-06-30
86.	IS 15354 : 2003— Single—use rubber examination gloves—specification	—	2003-07-31
87.	IS 15355 : 2003— Rubber hose and hose assemblies for liquid petroleum gas in motor vehicles—specification	—	2003-07-31
88.	IS 15356 : 2003— Acetaldehyde—specification	—	2003-06-30
89.	IS 15357 (Pt 1) : 2003— Photography—projection in indoor rooms Part 1 : Screen illumination test for still projectors	—	2003-06-30
90.	IS 15357 (Pt 2) : 2003— Photography—projection in indoor rooms Part 2 : Screen luminance test for still and video projection	—	2003-06-30



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91.	IS 15357 (Pt 3) : 2003— Photography—projection in indoor rooms Part 3 : Classification of transmitting projection screens and measurement of their transmitted luminance levels	—	2003-06-30
92.	IS 15358 : 2003— Liquid flow measurement in open channels—flow measurements under ice conditions	—	2003-07-31
93.	IS 15359 : 2003— Hydrometric determinations— measurement of suspended sediment transport in tidal channels	—	2003-07-31
94.	IS 15360 : 2003— Measurement of liquid flow in open channels—bed material sampling	—	2003-05-31
95.	IS 15361 : 2003— Raw natural rubber—ribbed smoked sheets (RSS)— guidelines	—	2003-07-31
96.	IS 15366 : 2003— Dolomite for paint industry— specification	—	2003-07-31
97.	IS 15368 : 2003— Cable reels for household and similar purposes	—	2003-07-31
98.	IS 15369 : 2003— Code of practice for construction of vault (Strong-room)	—	2003-07-31
99.	IS 15377 : 2003— Digital set top box for direct-to-home (DTH) services—specification	—	2003-06-30
100.	IS 15386 : 2003— Pressurized irrigation systems— graphic symbols	—	2003-06-30
101.	IS 15391 : 2003— Cold rolled non-oriented electrical steel sheet and strip—semi— processed type—specification	—	2003-07-31
102.	IS 15392 : 2003— Aluminium and aluminium alloy bare foil for food packaging—specification	—	2003-07-31

Copy of these standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. CMD-I/13 : 2]

M.A.U. KHAN, Dy. Director General (Marks)

## श्रम मंत्रालय

नई दिल्ली, 7 नवम्बर, 2003

क्रा. आ. 3326.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 54/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-03 को प्राप्त हुआ था।

[सं० एल-20012/75/96-आई.आर.(सी-I)]

एस. एस. गुप्ता, अवर सचिव

## MINISTRY OF LABOUR

New Delhi, the 7th November, 2003

S.O. 3326.—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 54/97) of the Central Government Industrial Tribunal/Labour Court-II. Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 6-11-03.

[No. L-20012/75/96-IR (C-I)]

S.S. GUPTA, Under Secy.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

## PRESENT:

Shri B. Biswas,  
Presiding OfficerIn the matter of an Industrial Dispute under Section  
10(1)(d) of I.D. Act, 1947.

## REFERENCE NO. 54 OF 1997

PARTIES: Employers in relation to the management of  
Sijua Area of M/s. BCCL and their workman.

## APPEARANCES:

On behalf of the workman : Shri S. N. Goswami,  
Advocate.On behalf of the employers : Shri H. Nath,  
Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad the October, 2003.

## AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/75/96-IR (C-I) dated the 1st May, 1997.

## SCHEDULE

"Whether the demand of the Union is justified that Sri Samsuddin Mia, "General Mazdoor" is eligible for change of his designation as "Compressor Operator" with Grade "A" pay w.e.f. 4-2-1987? If so, to what relief is the workmen entitled?"

2. The case of the concerned workman according to Written statement submitted by the sponsoring Union on his behalf in brief is as follows :—

It has been submitted that the concerned workman was initially appointed as "General Mazdoor" at Mudidih colliery under Sijua Area No. V. under the management in the year 1971. They submitted that subsequently management changing his service condition assigned the concerned workman to perform duty as Compressor Operator by issuing authorisation letter dt. 4-2-88 under clause 36 of the Mines Regulation and appointed him at 6/10 quarry/OCP Modidih colliery and being appointed he started performing his duty as compressor Operator with effect from 4-2-88 regularly on sanctioned post. They submitted that the nomenclature and categorisation of job assignment of "Compressor operator" as recommended by the Wage Board is in Grade A Pay scale but the management exploiting his service as compressor operator used to pay him wages as per Category I, General Mazdoor arbitrarily and illegally and violating the principle of natural justice. Accordingly he submitted several representations to the management requesting them to change his designation as Compressor operator and to pay him wages as per that pay scale but the management intentionally deprived him from enjoying that designation and pay scale and thereby victimised him. In the circumstances he raised an industrial dispute for conciliation which ultimately resulted reference to this Tribunal for adjudication. The concerned workman accordingly submitted his prayer to pass award with direction to the management to designate him as Compressor operator with Grade A pay scale w.e.f. 4-2-88 and difference of wages which he received as Cat. I General Mazdoor inspite of his rendering service as Compressor Operator.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring Union asserted in the written statement on behalf of the concerned workman. They admitting the fact of concerned workman's employment as General Mazdoor in Cat. I submitted that in the year 1988 he was deployed as compressor operator at OCP, Mudidih colliery and worked in that capacity till 1993. They submitted that the job of compressor Operator was purely temporary in nature and when the compressor was stopped in the year 1993 he was reverted back to his original post of General Mazdoor. They further submitted that as the work of compressor has been stopped there was no scope of his regularisation as Compressor Operator

and for which demand for his regularisation as Compressor Operator is baseless and for which he is not entitled to get any relief.

4. The points to be decided are :—

“Whether the demand of the Union is justified that Sri Samsuddin Mia, “General Mazdoor” is eligible for change of his designation as “Compressor Operator” with Grade ‘A’ pay w.e.f. 4-2-1988 ? If so, to what relief is the workman entitled ?”

#### FINDING WITH REASONS

5. It transpires from the record that the concerned workman in order to substantiate his claim examined himself as witness in this case while management also examined one witness as MW-1 in support of their case. Considering the facts disclosed in the pleading of both sides I find no dispute to hold that the concerned workman got his appointment as General Mazdoor in Cat. I at Mudidih colliery under Sijua area No. V under the management. It is the contention of the concerned workman that the management under clause 36 of Mines Regulations, 1957 issued letters dt. 4-2-88 to him appointing him as Compressor Operator at 6/10 Quarry/OCP Mudidih colliery and accordingly with effect from 4-2-98 he started performing his duty at 6/10 OCP, Mudidih colliery as Compressor Operator and in that capacity he continuously worked there for years together. His first contention is that inspite of his rendering service continuously for years together management did not consider to regularise him in the said post though he submitted repeated representations. His second contention is that the post of compressor is in Cat. A and the management though exploited his service for years together as compressor operator did not consider necessary to pay difference of wages for his service rendered by him. He alleged that the management although paid him wages of Cat. I General Mazdoor inspite of his rendering service as compressor operator.

The concerned workman in course of his evidence relied on the appointment letter issued by the Manager under clause 36 of the Coal Mines Regulations, 1957. The appointment letter shows that his appointment as Compressor Operator at 6/10 Quarry was temporary in nature. On the part of the management evidence is forthcoming to the effect that the appointment letter in question issued under signature of the Manager was manufactured one. Accordingly I do not find any scope to raise any question about authenticity of the appointment letter in question. It is seen that appointment of the concerned workman was temporary in nature. It is the specific claim of the concerned workman that till 1998 he discharged his duties as Compressor Operator continuously. MW 1 in course of his evidence categorically denied that the concerned workman continuously worked as Compressor Operator from 4-2-88 to Dec. 1993. Learned Advocate for the concerned workman referring the fact

disclosed in para-3 of the written statement-cum-rejoinder filed by the management submitted that MW-1 deposed falsely before the Tribunal to the effect that the concerned workman did not work continuously as Compressor Operator. Para 3 of the written statement-cum-rejoinder speaks clearly that the concerned workman in the year 1988 was deployed as Compressor Operator at OCP, Mudidih colliery and he continued to work in this capacity till 1993. Therefore, the facts disclosed in para-3 of the W.S.-cum-rejoinder speaks clearly that as Compressor Operator he rendered his service continuously till 1993. MW-1 during his evidence though denied this fact has failed to produce the log book to show that service rendered by the concerned workman as Compressor Operator was not continuous. It is seen that for long five years the concerned workman continuously discharged his duties as Compressor operator. It is the contention of the concerned workman that his service was deployed by the management as Compressor Operator against regular vacancy. To rebut this claim management have failed to produce any cogent paper. There is no dispute to hold that the concerned workman temporarily was appointed as compressor operator. Temporary appointment does not mean to interpret that a workman shall remain temporary for years together in the matter of discharging his duties particularly if it is not established that for any particular project which is for a limited period he got his appointment. It is the specific contention of the concerned workman that against regular vacancy management gave his appointment. From the record I have failed to find out any material on the part of the management about denial of this fact excepting the fact that the compressor work was stopped in the year 1993. During hearing management have failed to produce any paper to show that compressor work was stopped in the year 1993. On the contrary from the documents marked as Ext. W-2 to W-2(4) shows clearly that the concerned workman, during the period of 1993 and 1994 submitted representations to the management for his regularisation as Compressor Operator while he was very much discharging his duties. All the representations were duly received by the management as it bears official number and endorsement. As the management have failed to produce any material papers to rebut the claim of the concerned workman there is sufficient reason to consider that he discharged his duties as Compressor Operator till 1994. MW-1 during his evidence has raised question about competency of the Manager about giving appointment of the concerned workman as Compressor Operator. He submitted that Director, Technical was the competent authority to give any such appointment. Management in the Written statement-cum-rejoinder did not raise this issue. As such the management through evidence of MW-1 intended to incorporate a new story. Apart from this face Sec. 36 of the Coal Mines Regulations is clear that Manager was competent enough to appoint any workman for securing his service. It is seen that at the time of exploitation

of the service of the concerned workman as Compressor Operator this question relating to competency of the manager was not raised. It was only raised when the concerned workman to redress his grievance raised the industrial dispute.

6. After careful consideration of all materials on record I find no dispute to hold that the concerned workman though got his initial appointment as General Mazdoor cat. I subsequently in the year 1988 was appointed as Compressor Operator on temporary basis. It is the specific allegation of the concerned workman that management for years together continuously though exploited his service as Compressor Operator never paid him wages in that category. On the contrary they although paid him wages as General Mazdoor in Cat. I. Even they did not consider necessary to pay difference of wages. In course of hearing management have failed to produce as single scrap of paper rebutting his claim. The appointment letter Ext. W-1 does not speak anything that the concerned workman will be debarred from enjoying the grade of compressor Operator in course of his discharging duties as such. Therefore, there is sufficient scope to say that decision of the management not to pay difference of wages to the concerned workman was illegal, arbitrary and against the principle of natural justice when it has been established that for years together he acted as Compressor Operator being appointed by the management.

7. There is reason to believe that a lay man cannot be appointed as Compressor Operator without having any knowledge to operate the machine. As management considered him competent he was appointed for the said post. No evidence is forth coming that during long years of rendering his service as Compressor Operator he was found incompetent. Therefore, with all competency he discharged his duties as Compressor Operator.

8. As no evidence is forthcoming that there was no regular vacancy of compressor operator under the management it should be taken into consideration that he was appointed as compressor operator against regular vacancy though his initial appointment was on temporary basis. As the appointment of the concerned workman was not against a job of limited period there is no scope to consider that for unlimited period he was liable to discharge his duties temporarily as Compressor Operator. It is seen that the moment when the concerned workman raised his voice for his regularisation as Compressor Operator and demanded the wages as per that post he was reverted back. The letter of appointment does not include any such clause of reversion. There is also no allegation that the concerned workman was absolutely incompetent to discharge his duties as Compressor Operator. The only offence which he committed is that he demanded for his regularisation along with pay scale. The attitude of the management I should say was not only illegal and arbitrary but also it violated the principle of natural justice. Their act has exposed clearly

how the concerned workman was exploited and how vindictively he was reverted back to his original post without receiving slightest benefit inspite of exerting higher responsibility for years together.

Accordingly after careful consideration of all the facts and circumstances I hold that the concerned workman is entitled to get relief according to his prayer. In the result, the following Award is rendered :—

“The demand of the Union is justified that Sri Samsuddin Mia, “General Mazdoor” is eligible for change of his designation as “Compressor Operator” with Grade ‘A’ pay w.e.f. 4-2-1988. Consequently, the concerned workman is entitled to the following relief :—

- (1) He is to be regularised to the post of Compressor Operator with effect from the date of such appointment and his wages should be fixed in the minimum grade.
- (2) Management will pay difference of wages during the period of his service as Compressor Operator till the date of his reverting back to his original post of Genl. Mazdoor Cat. I.

The management is directed to implement the Award within three months from the date of publication of the Award in the Gazette of India in the light of the observation made above.

B. BISWAS, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2003.

का. आ. 3327.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 168/1991) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-2003 को प्राप्त हुआ था।

[सं० एल-20012/177/91-आई.आर.(सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 7th November, 2003

S.O. 3327.—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 168/91) of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 6-11-2003.

[No. L-20012/177/91-IR (C-I)]

S.S. GUPTA, Under Secy.

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD****PRESENT:**

Shri B. Biswas,  
Presiding Officer.

In the matter of an Industrial Dispute under Section  
10(1)(d) of the I.D. Act, 1947.

Reference No. 168 of 1991

**PARTIES:** Employers in relation to the management of  
Bhatdih Colliery of M/s. BCCL and their  
workman.

**APPEARANCES:**

On behalf of the workman : Shri Surendra Prasad  
Authorised  
Representative.

On behalf of the employers : Shri H. Nath,  
Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad the 15th October, 2003.

**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/177/91-IR (Coal-I) dated, the 9th December, 1991.

**SCHEDULE**

"Whether the management of Bhatdih Colliery in Mohuda Area No. 2 of M/s. Bharat Coking Coal Ltd. is justified in denying payment of wages to Shri Ram Milan Sahi, Sand Munshi for the period from 13-3-87 to 11-6-89? If not, to what relief is the workmen is entitled?"

2. The case of the concerned workmen according to the Written statement submitted by the sponsoring Union on his behalf in brief is as follows :—

It has been submitted by the sponsoring Union that the concerned workman was a Sand Munshi at Bhatdih Colliery. They submitted that during 1987-88 the management took unilateral step to reduce manpower by forcibly sending workmen to company's Medical Board in order to get them declared attendance of 60 years of age. Accordingly, by letter dated 21-1-87 the concerned workman was forced to appear before the Company's Medical Board for assessment of his age although there

was no necessity for the same as his age was duly recorded in Form-A of Coal Mines Provident Fund and in his school leaving certificate. They alleged that Medical Board illegally and arbitrarily ignoring his age recorded in the Form A as well as in the School leaving certificate assessed his age to be 60 years and thereafter on the basis of that report management stopped him from work with effect from 13-3-87. As the decision of the management in stopping the concerned workman from his work was absolutely of unfair labour practice they took up the matter with the management at different levels and ultimately the management accepting the date of birth recorded in the Form A register as well as in the School Leaving certificate reinstated him in service with effect from 12-6-89. They submitted that during the period from 13-3-87 to 11-6-89 the concerned workman was stopped from his regular service illegally arbitrarily and violating the principle of natural justice and thus he was deprived of getting his wages during that period for no fault of him. After reinstatement when the concerned workman placed his demand for wages during the period in question the management refused to consider his prayer. Accordingly he raised an Industrial Dispute through his sponsoring Union before the ALC(C) for conciliation which ultimately resulted reference to this Tribunal for adjudication. Accordingly, the concerned workman submitted his prayer to pass award directing the management to pay wages and allowances for the period from 13-3-87 to 11-6-89 holding that he was in service at that time.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring Union asserted in the written statement on behalf of the concerned workman. They submitted that the concerned workman was a Sand Munshi at Bhatdih Colliery. They disclosed that the concerned workman was superannuated from his service. On the basis of the report of the Medical Board age determination committee held on 31-1-87 as his age was assessed as 60 years as on 31-1-87.

Thereafter the sponsoring Union took up this dispute with the Director (Personnel) and it was decided that age recorded in the School Leaving certificate of the concerned workman should be considered as final and accordingly his age was verified from the Board of High School and Intermediate Examination, Allahabad, U.P. The deputy Secretary of that Board vide his letter No. 787/88-89/4447 dated 10-3-89 intimated that the date of birth of the concerned workman in the register was recorded as 1-8-35. Accordingly, on the basis of that report the concerned workman was allowed to resume his duty with effect from 12-6-89. They submitted that since the concerned workman did not work from 13-6-87 to 11-6-89 no wages was paid to him rightly and for which he is not entitled to get any relief. Accordingly management submitted their prayer to pass award rejecting the claim of the workman.

4. The points to be decided in this reference are :—

“Whether the management of Bhatdee Colliery in Mohuda Area No. 2 of M/s. Bharat Coking Coal Ltd. is justified in denying payment of wages to Shri Ram Milan Sahi, Sand Munshi for the period from 13-3-87 to 11-6-89? If not, to what relief is the workman entitled?”

#### FINDING WITH REASONS

5. Considering the evidence of both sides and also considering materials on record I find no dispute to hold that the concerned workman was appointed as Munshi by the management of Bhatdee Colliery in the year 1977. The concerned workman in course of his evidence categorically disclosed that not only in the CMPF declaration Form 'A' his date of birth was recorded as 1-8-35 but also in his admit card the same date of birth was recorded. He disclosed that he appeared in the Matriculation examination but could not pass the said examination. He submitted that before appearing in the said examination School Board issued Admit card to him wherein his date of birth was recorded as 1-8-35. He alleged that in spite of disclosing his date of birth as 1-8-35 relying on declaration Form A and also the Admit card management did not consider necessary to record the same in the official register. On the contrary they asked him to appear before the Medical Board for assessment of his age. He submitted that as per order of the management he was compelled to appear before the Medical Board on 31-1-87 and on the same day said Medical Board assessed his age as 60 years as on 31-1-87 and superannuated him from his service with effect from 13-3-87 illegally arbitrarily and violating the principle of natural justice prior to his actual date of superannuation. He disclosed that thereafter, when the sponsoring Union took up this matter with the management they agreed to accept his date of birth as 1-8-35 and reinstate him to his service on 11-6-89. He disclosed that for the arbitrary act of the management he remained idle for the period from 13-3-87 to 11-5-89 and for which he was deprived of getting his wages. The management in course of hearing admitted that to verify the date of birth of the concerned workman as recorded in the admit card called for a report from the Board of High School and Intermediate Education, Allahabad vide letter No. 787/88-89/4447 dated 10-3-89 and the Board in reply confirmed the date of birth of the concerned workman as 1-8-35 and submitted particulars to that effect which in course of the evidence of MW-1 was marked as Ext. M-1. This document speaks clearly that the concerned workman appeared in the examination conducted by the Board in the year 1953 and his date of birth was recorded as 1-8-35. Therefore, it is clear that long before his appointment as Munshi under the management the concerned workman appeared in the said examination.

6. It is the contention of the management that as no date of birth was recorded either in the Form B Register or in the declaration Form-A of the C.M.P.F. the concerned

workman was sent to the Medical Board for assessment of his age. They submitted that as the Medical Board assessed the age of the concerned workman as 60 years as on 31-1-87 he was superannuated from his service with effect from 13-3-87. However, on receiving report from the School Board he was reinstated in service on 11-6-87 accepting his date of birth as on 1-8-35. They submitted that the concerned workman before his date of superannuation relying on the report of the Medical Board failed to produce any authentic paper relating to his date of birth as 1-8-35.

7. In this connection the question which has been cropped up is on whom the responsibility to rest to verify the age of a workman at the time of getting his employment. JBCCI Circular No. 76 is very much clear on this point. It has been specifically mentioned that if a workman fails to produce any credible paper in support of his age at the time of his entry in the service his age in that circumstances should be assessed by the Medical Board and decision to that effect should be considered as final. It is seen that the concerned workman joined the management in the year 1977. The work of a Munshi cannot be carried on by an illiterate person. Therefore, definitely before entry in the service it was the bounded duty of the management to consider his qualification. If the submission of the management is taken into consideration it should be presumed that they did not check any paper relating to his qualification at the time of his entry in the service. No satisfactory explanation is also forthcoming why the management did not verify the age of the concerned workman at the time of his entry in the service. It is the statutory provision that all column of the Form B register should be filled in while a workman gets his appointment. Management admitted that the column meant for recording age of the concerned workman was left blank. This should be considered as gross dereliction of duty but the management have failed to give any satisfactory explanation to that effect. No satisfactory explanation also is forthcoming why after long years of service the concerned workman was placed before Medical Board for assessment of his age. In clause E of the JBCCI Circular it speaks clearly that “Medical Board constituted for determination of age will be required to assess the age in accordance with the requirement of Medical Jurisprudence” and the “Medical Board will as far as possible indicate the accurate age assessed and not approximately”. Management though relying on the report of the Medical Board superannuated the concerned workman from his service long before his actual date of superannuation did not consider necessary to produce the report before the Tribunal in course of hearing to consider if the said medical test of the concerned workman was held following Medical Jurisprudence. Again According to clause A (ii) of the said circular it transpires that in the case of appointees who have pursued studies in a recognised educational institution, his date of birth recorded in the school leaving



certificate shall be treated as correct date of birth and the same will not be altered under any circumstances provided the same was issued prior to the date of employment. It is seen that the concerned workman got his employment in the year 1977. Whereas he appeared in the Matriculation examination in the year 1953 i.e. long before getting his employment he appeared in the said examination and his date of birth in his Admit card was recorded as 1-8-35. Therefore, according to JBCCI circular his date of birth recorded in the said Admit card shall be treated as correct date of birth and the same will not be altered under any circumstances.

8. It is the contention of the management that the concerned workman did not produce the said Admit card before he was sent to Medical Board for assessment of his age. On the contrary the contention of the concerned workman is that not only he placed his record to the management. Before he was sent to Medical Board but before Medical Board he also produced the same record in support of the proof of his date of birth but neither the management nor the Medical Board paid any heed to his appeal. The concerned workman in course of his evidence categorically mentioned that in the declaration Form A of the C.M.P.F. his date of birth was recorded as 1-8-35 though management denied it. However, in course of hearing management did not consider necessary to produce the said declaratrion Form A to establish their claim. Accordingly, there is no scope to draw any inference in support of the claim of the management.

Considering all facts and circumstances, I hold that there was no reason to suppress the record wherein his date of birth was recorded. It is not at all believable that the concerned workman started his agitation only after he was superannuated by the management relying on Medical report. On the contrary there is sufficient scope to draw conclusion that it was the management who have exposed their gross negligence in recording age of the concerned workman from the very beginning of his service. It is seen that under active interference of the Director (Personnel) the admit card of the concerned workman was checked and when its genuinity was proved he was reinstated in service. There was scope for verification of that certificate by the management at an early date but instead of doing so they ignoring the claim of the workman following short method placed him before Medical Board for assessment of his age and thereafter on the basis of the report he was superannuated from service long before actual date of his superannuation and for which he had to remain idle for about two years. I find sufficient reason to believe that for the arbitrary act of the management the concerned workman remained idle for the period from 13-3-87 to 11-6-89 and therefore this period should be treated as part of his service period. It is seen that management not only arbitrarily superannuated the concerned workman from his service but also illegally deprived him from his work. Accordingly,

I hold that the period of idleness i.e. from 13-3-87 to 11-6-89 should be considered as on duty period and he is very much entitled to get wages and other consequential relief for that period. I hold that in the circumstances the concerned workman shall be victimised for the arbitrary act of the management. Accordingly, the concerned workman is entitled to get relief in view of his prayer.

In the result, the following Award is rendered :—

“The management of Bhatdee Colliery in Mohuda Area No. 2 of M/s. Bharat Coking Coal Ltd. is justified in denying payment of wages to Shri Ram Milan Sahi, Sand Munshi for the period from 13-3-87 to 11-6-89. Consequently, he is entitled to get wages for the period from 13-3-87 to 11-6-89.”

The management is directed to implement the Award within three months from the date of publication of the Award in the Gazette of India in the light of the observation made above.

B. BISWAS, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2003

का० आ० 3328.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. सी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 105/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-2003 को प्राप्त हुआ था।

[ सं० एल-20012/36/98-आई.आर. (सी-I) ]

एस० एस० गुप्ता, अवर सचिव

New Delhi, the 7th November, 2003

S.O. 3328.—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 105/99) of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CCL and their workman, which was received by the Central Government on 6-11-2003.

[No. L-20012/36/98-IR (C-I)]

S.S. GUPTA, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

#### PRESENT:

Shri B. BISWAS,  
Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of I.D. Act, 1947.

**Reference No. 105 of 1999**

**PARTIES:** Employers in relation to the management of Pindara Colliery of M/s. CCL and their workman.

**APPEARANCES:**

On behalf of the workman : None

On behalf of the employers : Shri S. Jamal, Sr. P.O.

State : Jharkhand Industry : Coal

Dated, Dhanbad the 13th October, 2003.

**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/36/98-IR (C-I) dated, the 29th January, 1999.

**SCHEDULE**

"Whether the action of the management of Pindra Colliery of M/s. CCL, P.O. Topa, Distt. Hazaribagh in terminating the services of Sri Soma Bhuiya PR worker w.e.f. 26-3-1993 is legal and justified? If not, to what relief is the workman entitled?"

2. The case of the concerned workmen according to the written statement submitted by the sponsoring Union on his behalf in brief is as follows :—

The sponsoring union submitted that the concerned workman was terminated from his service all on a sudden without giving any notice and also without following any procedure of law. They submitted that the Project Officer was neither the appointing authority nor could have been considered as Disciplinary Authority. Therefore, the impugned order of termination was unauthorised invalid and inoperative.

They disclosed that application on account of illness and followed by awaiting of leave on medical ground could not be considered as misconduct. Accordingly, termination of the concerned workman on that ground not only was arbitrary but also improper and violation of the principle of natural justice. They alleged that no chargesheet was issued to the concerned workman and also no opportunity was given to him to defend his case. They submitted that the concerned workman was on medical leave on the ground of his illness and inspite of knowing this fact management violating the principle of natural justice terminated him from service. Even before such termination management did not consider necessary to give him opportunity to hear him. Accordingly, they raised an industrial dispute before the ALC (C) for conciliation which ultimately resulted reference to this Tribunal for adjudication.

The sponsoring union accordingly, submitted prayer to pass award directing the management to

reinstate the as concerned workman in service setting aside the order of dismissal along with back wages and other consequential relief.

Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement on behalf of the concerned workman. They submitted that the concerned workman started absenting from his duties with effect from 19-1-1992 without permission and information and without sufficient cause. He was issued chargesheet dt. 16-11-92 for commission of misconduct of unauthorised absence from duty under signature of the colliery manager who is competent authority to issue chargesheet to workman working in a coal mine as the concerned workman was a piece rated worker. They submitted that even after issuance of chargesheet the concerned workman did not consider necessary to submit his reply. Thereafter on direction of the Agent/Project Officer of the colliery Mr. R. R. Prosad Senior P. O. took up hearing on domestic enquiry as Enquiry Officer. They submitted that before taking up hearing on domestic enquiry the said Enquiry Officer repeatedly issued notice to the concerned workman at his permanent and present local address by regd. post but inspite of repeated issuance of notice he did not turn up and for which the Enquiry Officer took up hearing on domestic enquiry ex parte and after completion of enquiry proceeding the submitted his report to the disciplinary authority holding the concerned workman guilty to the charges brought against him and the disciplinary authority after considering the report and consulting all relevant papers terminated the concerned workman from service vide letter dt. 26-3-93. They submitted that the concerned workman did not bother for his service and did not approach the management even after termination of his service and the present demand raised by the concerned workman in the year 1997 is based on his after thought at the instigation C. S. Pathak, Vice President of the United Coal Workers Union with malafide motive for earning huge amount from the Public Sector Undertaking. They submitted that as the concerned workman did not report for his duty at any point of time he is not entitled to get any relief.

Accordingly management submitted prayer at pass award rejecting the claim of the workman.

4. The points to be considered in this reference are :—

"Whether the action of the management of Pindra Colliery of M/s. CCL, P. O. Topa, Distt. Hazaribagh in terminating the services of Sri Soman Bhuiya PR worker w.e.f. 26-3-1993 is legal and justified. If not, to what relief is the workman entitled?"



## 5. FINDINGS WITH REASONS

It appears from the record that before taking up hearing this case on merit preliminary hearing was taken up to consider if domestic enquiry held against the concerned workman by the Enquiry Officer was fair, proper and according to the principle of natural justice. The said hearing on preliminary point was taken up ex parte as neither the concerned workman nor his representative appeared at the time of said hearing in spite of giving the opportunity. Thereafter, order on preliminary point was passed vide order No. 12 dt. 27-5-03 and it was observed clearly that domestic enquiry held against the concerned workman by the Enquiry Officer was fair, proper and in accordance with the principle of natural justice. Accordingly, at his stage I do not find any sufficient ground to reopen this issue again.

6. Here the point for consideration is whether the management have been able to substantiate the charge brought against the concerned workman and if so the concerned workman is entitled to get any relief under Section 11A of the I.D. Act in view of punishment inflicted on him. It transpires that at the time of hearing this case on merit neither the concerned workman nor his representative was found present. Accordingly, there was no scope to hear the concerned workman relating to the charges brought against the concerned workman. Considering the materials on record I find no dispute to hold that the concerned workman was an employee under the management. It is the contention of the management that as the concerned workman started absenting himself from duty with effect from 19-1-92 without prior sanction of his leave or without prior intimation to the management and also without sufficient cause a chargesheet dated 16-11-92 was issued to him. It transpires that management issued the chargesheet to the concerned workman after remaining himself about continuously for about eleven months. The chargesheet during evidence of MW-1 was marked as Ext. M-1. The charge which was brought against the concerned workman as per chargesheet is as follows :—

"You are found absent from 17-1-92 till date on your duty without prior permission and sufficient reason which is a gross misconduct as per sub-clause (i) of clause 26 of the Standing Order by which your service is governed.

You are hereby directed to submit your explanation in respect of your above cited unauthorised absence from your duty to reach the undersigned not later than three days of receipt of this chargesheet. If you fail to submit any explanation in the specified date it will be presumed that you have no explanation to offer and thereafter disciplinary action will be taken against you deemed fit by the management.

Sd/-Illegible.  
Colliery Manager.

It is the contention of the management that in spite of issuance of chargesheet the concerned workman did not submit any reply and for which disciplinary authority vide office letter dt. 6-1-93 (Ex. M-2) appointed R. R. Prosad as Enquiry Officer MW-1 during his evidence disclosed that after taking charge of the enquiry proceedings he issued two notices to the concerned workman at his place of residence by registered post. Copies of the said two notices had been marked as Ex. M-3 and M-3/1. during his evidence. I have made clear observation in my order on preliminary issue why the notices issued by the Enquiry Officer had been considered as valid one. It is seen that the Enquiry Officer during domestic enquiry not only recorded statement of management witness but also consulted attendance register relating to attendance of the concerned workman.

It transpires clearly that during the year 1991 the concerned workman put his attendance for only 45 days and thereafter he started himself absenting from duty continuously with effect from 19-1-92. It is the contention of the management that not only upto the date of issuance of chargesheet but also upto the date of passing his termination order by the disciplinary authority upto i.e. 26-3-93 he remained himself absent without notice and also without showing sufficient cause. It is, therefore, clear that for more than one year the concerned workman remained himself on unauthorised leave without assigning any sufficient cause. But as per facts disclosed in the written statement submitted by the sponsoring union on behalf of the concerned workman I find a different picture. The sponsoring Union submitted that on account of his illness the concerned could not attend to his duties and to that effect he submitted leave application on medical ground. Therefore, according to the facts disclosed in the written statement the concerned workman could not attend to his duties during the period in question. It is really shocking to note that in spite of getting ample opportunities the concerned workman or the sponsoring union did not considered necessary to produce a single medical paper either in course of preliminary hearing or in course of hearing the instant case on merit. They also have failed to produce any copy of the application to show that leave application was duly submitted to the management intimating the fact relation to his suffering from illness. It is seen that excepting the facts disclosed in the written statement the concerned workman or the sponsoring union did not considered necessary to adduce oral evidence or to produce documentary evidence to substantiate their claim. Facts disclosed in the pleadings cannot be considered as substantive piece of evidence until and unless the same is substantiated by cogent evidence. As per provision laid down in the certified Standing Order the management did not commit any illegality in issuing chargesheet against the concerned workman for committing misconduct on the ground of

absentism. It is seen that after a lapse of about 11 months from the date when he started absenting himself management issued the chargesheet for committing misconduct on the ground of absentism.

7. Management in course of hearing has sufficiently established the charge of misconduct brought against the concerned workman in course of hearing. Accordingly onus was on the concerned workman/union to counter act the allegation brought by the management. I find no hesitation to say that the concerned workman union have lamentably failed to establish their claim that management illegally, arbitrarily and violating the principle of natural justice issued the chargesheet for committing misconduct by the concerned workman on the ground of absentism. I therefore, on careful consideration of all the facts and circumstances hold that management in course of hearing have been able to establish the charge brought against the concerned workman.

8. It transpires from therecord that management considering report of the enquiry officer and also considering all aspect terminated the service of the concerned workman vide office order dt. 26-3-93 (Ext. M-9). In the wrtitten statement submitted by the sponsoring union it has been alleged that on the ground of absentism punishment inflicted on the concerned workman was too barsh and it violated the principle of natural justice. On the contrary from the submission of the management it transpires that the concerned workman was in the habit of remaining himself absent from duty as of his choice, they diclosed that during the whole year of 1991 the concerned workman attended to his duties for only 45 days and during the year 1992 after 17-1-92 he never attended to his duties. This attitude on the part of the workman has exposed clearly that he did not consider necessary to maintain any sort of disciplin in the matter of his attendance. It is fact that he took the plea of his ailment which compelled him to remain himself absent from duty but he has lamentably failed to establish this fact. Accordingly that plea cannot be considered with any importance to reconsider the punishment inflicted on him taking into consideration of the provision as laid down under Section 11A of the I.D. Act. It must be the duty of every workman to maintain discipline at the place of his work for smooth running of the administration. It is seen that as the concerned workman did not care to abide by the norms of the management. I have failed to find out any cogent ground to hold that the punishment inflicted on the concerned workman was unjustified. On the contrary there is reason to believe that for the maintenance of discipline the punishment which was imposed cannot be said to be unjustified. Accordingly I do not find any reason to invöke the provision of Section 11A of the I.D Act to reconsider the punishment imposed on him

and for which he is not entitled to get any relief. In the result, the following award is rendered :—

"The action of the management of Pindra Colliery of M/s. CCL, P.O. Topa, Distt. Hazaribagh in terminating the services of Sri Somar Bhuiya, PR worker w.e.f. 26-3-93 is justified. Consequently, he is not entitled to get any relief."

B. BISWAS Presiding Officer.

नई दिल्ली, 7 नवम्बर, 2003

का. आ. 3329.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 89/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-2003 को प्राप्त हुआ था।

[सं० एल-20012/155/96-आई.आर.(सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 7th November, 2003

S.O. 3329.—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 89/97) of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 6-11-03.

[No. L-20012/155/96-IR (C-I)]

S.S. GUPTA, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

#### PRESENT:

SHRI B. BISWAS, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

#### REFERENCE NO. 89 OF 1997

**PARTIES:** Employers in relation to the management of Bastacolla area of M/s. BCCL and their workman.

#### APPEARANCES:

On behalf of the workman : Mr. K. Chakravorty,  
Advocate.

On behalf of the employers : Shri R.N. Ganguly,  
Advocate

State : Jharkhand

Industry : Coal

Dated, Dhanbad the 15th October, 2003.

**AWARD**

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/155/96-IR (C-I) dated the 24 July, 1997.

**SCHEDULE**

"Whether the action of the management of Dobari Colliery of M/s. BCCL, in dismissing the services of Shri Bhodhan Sawra, Miner Loader, is legal and justified? If not to what relief is the said workman entitled?"

2. The case of the concerned workmen according to the Written statement submitted by the sponsoring Union on his behalf in brief is as follows :—

The sponsoring union in the written statement disclosed that the concerned workman was a permanent miner loader at Dobari Colliery and his identity card no. was 20-11-77. They submitted that unfortunately the concerned workman owing to his serious illness absented from duty and to that effect he intimated the management. They alleged that inspite of getting knowledge of this fact of serious illness of the concerned workman management adopting anti labour policy issued a false and frivolous chargesheet to him for committing misconduct on the ground of absentism without prior intimation and without any reasonable cause. They submitted that as the said chargesheet was not served to the concerned workman question of its reply on his part did not arise. Inspite of this fact the management conducted domestic enquiry proceeding against the concerned workman without his knowledge and in his absence exparte and thereafter on the basis of that enquiry report the disciplinary authority dismissed him from service illegally, arbitrarily and violating the principles of natural justice.

According they raised an industrial dispute before the ALC (C) Dhanbad for conciliation which ultimately resulted reference to this Tribunal for adjudication. The sponsoring union accordingly submitted prayer on behalf of the concerned workman to pass award directing the management to reinstate the concerned workman in service with full back wages and other consequent relief setting aside the order of dismissal.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement on behalf of the concerned workman.

Admitting the fact of concerned workman's posting at Dobari colliery as permanent miner/loader they submitted

that he was engaged in the underground in production side and fully aware about the importance of production of coal he started himself absenting from duty with effect from 6-1-92 without any information and approval of the management. As his absence from duty was continuous without showing any sufficient cause management issued chargesheet to him which was sent at his permanent address as well as at his present address by registered post and a copy of the same also was posted in the notice board. They submitted that notice sent to the concerned workman at his home address was duly received by him and he acknowledged its receipt by putting his LTI in his postal document on 28-8-92. They alleged that inspite of receiving the said chargesheet the concerned workman did not consider necessary to submit his reply. Thereafter the disciplinary authority issued order for holding domestic enquiry against him and appointed enquiry officer to that effect. Thereafter the Enquiry Officer after giving reasonable opportunity to the concerned workman for his defence conducted the domestic enquiry proceeding exparte as he deliberately avoided to defend his case. They disclosed that final hearing of the said proceeding was fixed on 25-5-93 and till that date the concerned workman did not appear. Accordingly, after completing the said enquiry exparte the enquiry officer submitted his report holding the concerned workman guilty to the charges. Thereafter, Disciplinary authority considering the report and also considering all aspects came to the conclusion about commission of serious misconduct by the concerned workman and accordingly dismissed him from service vide order dt. 5/6-11-93. They submitted that considering the misconduct committed by the concerned workman the disciplinary authority was compelled to dismiss him from service and in passing the said order neither they committed any illegality nor they showed any impropriety violating the principle of natural justice. Accordingly, they submitted prayer to pass award rejecting the claim of the concerned workman.

4. The points to be decided in this reference are:—

"Whether the action of the management of Dobari Colliery of M/s. BCCL in dismissing the services of Shri Bhodhan Sawra, Miner Loader, is legal and justified? If not, to what relief is the said workman entitled?"

**FINDING WITH REASONS**

5. It appears from the record that before taking up hearing this case on merit the hearing on the point of preliminary issue if the domestic enquiry held against the concerned workman by the enquiry officer in view of charge sheet issued to him for committing misconduct on the ground of absentism was fair, proper and in accordance with the principle of natural justice or not. The said issue on preliminary point was disposed of vide order No. 33 Dt. 11-6-03 and it was decided that domestic enquiry held

against the concerned workman was fair, proper and in accordance with the principle of natural justice. Accordingly at this stage I do not find any reason to reopen this issue again for discussion.

6. Here the point which is to be taken into consideration is if the management have been able to substantiate the charge brought against the concerned workman and if so whether the punishment inflicted upon the concerned workman deserved to be modified relying on the provision as laid down under Section 11A of the I.D. Act, 1947.

7. It transpires from the record that in course of preliminary hearing management examined the concerned workman as MW-1. In spite of getting scope the concerned workman did not consider necessary to adduce any evidence in support of his case. During evidence of MW-1 copy of the chargesheet which was received by the concerned workman was marked as Ext. M-1. Considering the facts disclosed in the pleadings of both sides I find no dispute to hold that the concerned workman was miner loader in the underground of Dobari colliery. It is the specific allegation of the management that the concerned workman started himself absents from duty without prior permission or knowledge of the management from 6-1-92. They submitted that as the absence of the concerned workman from duty was continuous finding no other way they issued chargesheet to him dt. 3-8-92. They submitted that in spite of receiving the chargesheet which was sent to him at his home address by regd. post with A/D as he did not consider necessary to give any reply domestic enquiry against him was taken up by the enquiry officer being appointed by the disciplinary authority. MW-1 i.e. the Enquiry officer during his evidence disclosed that after assuming charge of the enquiry proceeding he issued notices to the concerned workman but as he evaded notices he hanged the notice of enquiry in the notice board and fixed date for holding domestic enquiry. He further disclosed that on the date of hearing as the concerned workman did not consider necessary to appear he took up the said enquiry proceeding ex parte and after completing his enquiry submitted report holding the concerned workman guilty of the charges. It transpires that final hearing on domestic hearing was held on 25-5-93. Therefore, it is clear that the concerned workman without the knowledge of the management and also without assigning any satisfactory reason remained himself absent unauthorisedly for more than one year. On the contrary it is the contention of the workman that as he fell seriously ill he was compelled to remain himself absent from duty and time to time he intimated this fact to the management but the management without considering his inability to attend his duty on the ground of his illness issued charge sheet to him with the allegation of committing misconduct on the ground of absentism. He further disclosed that he did not receive the chargesheet which was issued against him. This fact has

been categorically denied by the management and MW-2 relying on the A/D card Ext. M-2 submitted that the chargesheet which was sent to the concerned workman was duly received by him and he acknowledged receipt of the same by putting his LTI in the same. The L.T.I. appearing in the A/D card was not challenged by the concerned workman as not of his LTI, during cross-examination of MW-1 or by filing any separate petition. Therefore, there is sufficient reason to believe that the concerned workman though received the chargesheet did not consider necessary to submit his reply. It is the specific contention of the concerned workman that as he fell seriously ill he could not get scope to attend his duty and for which he time to time informed the management about reason for his absence. From the submission of the concerned workman two materials facts have come into light i.e. the reason for absence of the concerned workman was for his serious illness and that he time to time intimated this fact to the management. There is no dispute to hold that the concerned workman continuously for a long period remained himself absent from duty. It is the plea of the workman that ground for such long absence was owing to his serious illness. It is peculiar to note that nowhere in his written statement he disclosed actually from which disease he was suffering from. It is seen from the record that sufficient opportunity was given to him to establish his claim in course of hearing but he has failed to produce a single scrap of medical paper to show that he was actually under treatment for his serious ailment. From the report of the enquiry officer it has revealed that the concerned workman never attended colliery hospital for his treatment. Therefore, onus on the concerned workman to establish that actually he was lying seriously ill and that was the cause for his undue absence from duty. Considering all materials on record I have failed to find out any material to uphold his claim and for which there is no way out but to draw conclusion that the plea of ailment taken by him was false. The concerned workman also in course of hearing has failed to produce a single scrap of paper to show that time to time he intimated the management about his illness and the reason for his absence from duty. Accordingly the plea which has been taken up by him is not at all acceptable.

8. In view of the facts and circumstances discussed above there is sufficient reason to believe that the management was justified in issuing chargesheet against the concerned workman for committing misconduct on the ground of his long and continuous absence. Certified standing order is clear that in case of unauthorized absentee without showing any justifiable cause for more than 10 days amounted to misconduct and the management is empowered to issue chargesheet. There was as scope on the part of the concerned workman to give reply to the chargesheet after receiving the same with satisfactory reason why he was refrained from attending his duty. It is seen that in spite of receiving the chargesheet and also

getting ample scope he did not consider necessary to submit his reply. It is seen that the enquiry officer before taking up hearing of the domestic enquiry proceeding issued notices to him in the same address where chargesheet was sent and received by him but he evaded to receive the notice not only but also did not consider necessary to appear in course of domestic enquiry with a view to defend his case. I have reason to believe that it was a tactical policy adopted by the concerned workman with a view to linger the dispute in question.

9. I have carefully considered the enquiry report submitted by the enquiry officer (Ext. M-9). In his report he has clearly assigned reason why he found the concerned workman guilty to the charges. On careful consideration of all the fact and circumstances I have failed to find out any material to say that the enquiry officer being biased submitted his report holding the concerned workman guilty to the charges. I do not find any material to say that the enquiry officer illegally, arbitrarily and violating the principle of natural justice submitted his report. In view of the facts and circumstances discussed above I hold that management in course of hearing have been able to establish the charge brought against the concerned.

10. It is seen from the record that the concerned workman was dismissed from his service by the disciplinary authority after considering the enquiry report and other material facts. The letter of dismissal during evidence of MW-1 was marked as Ext. M-10. Now the point for consideration is if the order of dismissal from service of the concerned workman by the management can be reviewed or not. Section 11A of the I.D. Act is as follows :—

“Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and condition if any, as it thinks fit, or give such other relief to workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require.”

Therefore, according to the provision as laid down under Section 11A of the I.D. Act it is to be taken into consideration if the order of punishment inflicted on the concerned workman was unjustified or not.

11. It is seen that management issued chargesheet to the concerned workman after a lapse of six months from the day i.e. 6-1-92 where from he started absenting from duty. It is seen that the chargesheet was duly received by him. It was the plea of the concerned workman that as he was lying seriously ill he could not get scope to perform

his duty. In spite of claiming so he did not disclose the name of the disease which he was suffering from. He had ample scope to high light the ground of his ailment in his reply to the chargesheet but evaded himself from doing so. He also has failed to produce a single scrap of medical paper to establish his claim in course of hearing. Even he did not consider necessary to submit any paper to show that he time to time intimated the ground of his ailment to the management. The concerned workman has failed to establish that actually he was lying ill during the period in question. Accordingly there is sufficient reason to believe that he created this issue for getting his relief knowing fully well that during this period he was never lying ill. Considering the conduct of the concerned workman I have failed to find out that he was repentant for the wilful misconduct committed by him. The conduct of the concerned workman if looked into will expose that enjoyment of unauthorised leave affecting production of coal was of his right. It has to be borne in mind by every workman that every organisation have its own norms which must be followed by them not only for the upliftment and progress of the industry but also for the interest of maintaining discipline. The management I consider have absolute right to take disciplinary action against the workman if his conduct proves to be a prejudicial act to maintain the production as well as growth of the Industry and also a violation to maintain its discipline. It is seen that the management did not commit any illegality in issuing chargesheet to the concerned workman. There was sufficient scope to convince the management the reason of his absence but he did not consider necessary to do so. The concerned workman in course of hearing has failed to justify that the order of dismissal passed against him was unjustified. There is scope to say that the concerned workman not only exposed his extreme indisciplinary attitude but also for such wilful act the production of the management was affected. It cannot be considered that enjoyment of unauthorised leave is a liberty to any workman. In the instant case if any lenient view is taken in reviewing his punishment it may give indulgence to other workmen to commit such type of misconduct in future and in that circumstances it will be very much difficult on the part of the management to maintain discipline in the organisation not only but also they will be placed in real difficulty to maintain production as well as growth of the Industry. Accordingly, after considering all aspects carefully I do not find any reason to review the order of dismissal of the concerned workman invoking Section 11A of the I.D. Act. In the result the following award is rendered :

“The action of the management of Dobari Colliery of M/s. BCCL in dismissing the services of Shri Bhodhan Sawra, Miner is legal and justified. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer



नई दिल्ली, 7 नवम्बर, 2003

का. आ. 3330.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 31/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-03 को प्राप्त हुआ था।

[सं० एल-20012/122/95-आई.आर.(सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 7th November, 2003

S.O. 3330.—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/96) of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 6-11-03.

[No. L-20012/122/95-IR (C-I)]

S.S. GUPTA, Under Secy.

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD****PRESENT:**

SHRI B. BISWAS, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of I.D. Act, 1947.

**REFERENCE NO. 31 OF 1996**

**PARTIES:** Employers in relation to the management of Jealgora Colliery of M/s. BCCL and their workman.

**APPEARANCES:**

On behalf of the workman : None.

On behalf of the employers : None

State : Jharkhand Industry : Coal.

Dated. Dhanbad the 16th October, 2003

**AWARD**

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/122/95-IR (Coal-I) dated the 26th March, 1996.

**SCHEDULE**

"Whether the action of the management of Jealgora Colliery of M/s. BCCL in dismissing Sri Kamal Kishore Vishwakarma, MCL from service is justified? If not, to what relief the concerned workman is entitled?"

2. The case of the concerned workman according to the written statement submitted by the sponsoring Union on his behalf in brief is as follows :—

The sponsoring union submitted that the concerned workman got his appointment on 17/23-4-82 as Miner/Loader under the management on compassionate ground. They alleged that the Agent of Jealgora Colliery issued a chargesheet against the concerned workman vide chargesheet No. AJ/Charge-sheet/PS/12/96 dt. 12/13-1-88 under para 27(2), (17) and (19) of the certified standing order, (a) for theft, fraud or dishonesty in connection with the company's business or property (b) giving fake information regarding his name, age, father's name, qualification or previous service at the time of employment and (c) any breach of the Indian Mines Act or any other Act or of any rule or by laws thereunder or of standing orders. They alleged that the concerned workman not only was suspended from his service forthwith but also asked him to submit his reply to the chargesheet within 48 hours. It has submitted further that the management not only refused to allow time to the concerned workman for three weeks to submit his reply to the chargesheet but also on his demand did not furnish the particulars relying on which they issued chargesheet to him. They further alleged that management thereafter by an arbitrary order appointed the enquiry officer and the said enquiry officer by his letter No. Sr. P.O./Enquiry/235 dt. 11/12-2-88 fixed the date of enquiry on 19-2-88. They alleged that the said enquiry officer did not apply his mind properly at the time of conducting the domestic enquiry. They submitted that at the time of domestic enquiry the enquiry officer did not consider necessary to examine any officer of Bihar Secondary Schools Examination Board to establish the veracity of the report submitted by the Board relating to their claim that the matriculation certificate in question was not correct. They submitted that in course of said enquiry proceeding the concerned workman out of confusion and sheer desperation made a confession pleading himself guilty to the charges. Immediately thereafter the enquiry officer concluded hearing of domestic proceeding without giving any chance to the concerned workman to adduce defence witness on his part. Thereafter on 9-3-88 the enquiry officer submitted his report to the disciplinary authority holding the concerned workman guilty to the charges and thereafter he was dismissed from his service by the Agent of Jealgora Colliery vide his letter No. A7/dismissed/526 dt. 15/19-4-88 arbitrarily, illegally and violating the principle of natural justice. Accordingly they raised an industrial dispute before the ALC(C), Dhanbad for conciliation which ultimately resulted reference to this Tribunal.

The sponsoring union accordingly submitted prayer on behalf of the concerned workman to pass award with direction to the management to reinstate the concerned workman in service with full back wages and other consequential reliefs recalling the said order of dismissal.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement on behalf of the concerned workman.

They submitted that the concerned workman was appointed as a Machine coal loader on piece rated and posted at Jealgora colliery. In the year 1986 applications were invited for time rated job from the piece rated workers having matriculation qualification. In response to the said call the concerned workman submitted his application annexing his matriculation certificate and claimed for his employment in time rated job from piece rated jobs. Thereafter, on verification of said matriculation certificate it was found that the said certificate issued by Bihar Secondary School Examination Board Patna was not genuine and accordingly chargesheet bearing No. AJ/CS/PS/R. 16 dt. 12/13-1-88 was issued to him for committing misconduct under clause 27(2) (17) (19) of the certified standing order. After receiving the chargesheet the concerned workman submitted his reply on 20-1-88 but as the said reply was found to be unsatisfactory a departmental enquiry was started against him by the enquiry officer A. K. Singh under order of the disciplinary authority. They submitted that the concerned workman fully participated in the said enquiry proceeding and full opportunity was given to him to defend his case. They further submitted that in course of said enquiry proceeding the concerned workman admitted his guilt and confessed that he submitted a forged matriculation certificate to get his employment as time rated worker. They disclosed that the Enquiry officer thereafter submitted his report holding the concerned workman guilty to the charges. They submitted that as the charge brought against the concerned workman was very serious in nature they did not either took any arbitrary decision or commit any illegality in dismissing the concerned workman from his service. They also denied the fact of violating the principles of natural justice in taking such decision. Accordingly management submitted that the concerned workman is not entitled to get any relief in view of his prayer.

3. The points to be decided in this reference are:—

“Whether the action of the management of Jealgora Colliery of M/s. BCCL in dismissing Sri Kamal Kishore Vishwakarma, MCL from service is justified. If not, to what relief the concerned workman is entitled?”

#### 4. FINDING WITH REASONS

Considering the facts disclosed in the pleadings both sides I find no dispute to hold that the concerned workman got his employment as Miner/Loader at Jealgora colliery on 17/23-4-82 on compassionate ground as piece rated workman. It is the contention of the management that in the year 1986 applications were invited from the piece rated workers having matriculation qualification for their regularisation as time rated workers. They submitted that in response to that call the concerned workman submitted his application annexing a copy of his certificate for matriculation examination issued by Bihar Secondary School Examination Board. It is the contention of the management that to verify the genuinity of the said certificate they called for report from the Board. They submitted further that on receipt of the said report from the Board they came to know the concerned workman submitted a false and forged certificate with a view to get regularisation of his job as time rated worker from piece rated worker. Accordingly they issued chargesheet No. AJ/CS/PS/R-16 dt. 12/13-1-88 to the concerned workman for committing misconduct under clause 27(2) (17) (19) of the certified standing order. It is seen that the concerned workman submitted a petition dt. 20-1-88 with a prayer for three weeks time to submit his reply to the charge. Therefore, it is clear that the concerned workman received his chargesheet.

5. It further transpires from the record that domestic enquiry against the concerned workman was started on 19-2-88. Therefore, it is clear that inspite of getting three weeks time from the date of his filing application dt. 20-1-88 the concerned workman did not consider necessary to submit his reply. It is clear from the record that the concerned workman was very much present in course of domestic enquiry proceeding. Therefore, there is no scope to say that in absence of the concerned workman the said enquiry proceeding was taken up. I have carefully considered the report submitted by the Board of Secondary Examination Bihar and it exposed clearly that the matriculation certificate which the concerned workman relied on was not a genuine document issued by them. Therefore, there is sufficient reason to believe that for his wrongful gain and to cause wrongful loss to the management he submitted his forged matriculation certificate. It is seen that in course of enquiry proceeding the concerned workman confessed his guilt relating to submission of forged matriculation certificate. The concerned workman in his pleadings also admitted this fact.

6. In the pleading the sponsoring Union on behalf of the concerned workman have taken plea that the management illegally and arbitrarily did not give sufficient opportunity to him to defend his case. I have already discussed above that the date of filing petition for time and the date of commencing the enquiry proceedings the concerned workman got ample scope to give his reply to the chargesheet but he did not consider necessary to do so.

7. It is the specific allegation of the management that for his wrongful gain the concerned workman submitted his forged matriculation certificate. Accordingly onus shifted on the concerned workman to establish that such claim of the management was absolutely false. The record shows clearly that inspite of giving ample opportunities the concerned workman neither appeared nor adduced any evidence before this Tribunal in course of hearing to substantiate his claim. No where in his pleading I find any whisper that the certificate which he produced was genuine. On the contrary he in course of enquiry proceeding made his confessional statement about submission of forged matriculation certificate. I have carefully considered the charge brought against the concerned workman by the management. There is sufficient reason to believe that by relying on forged document his intention was to cheat the management for his wrongful gain. The allegation is no doubt serious. It is seen that full opportunity was given to the concerned workman to disprove the charge not only before the Enquiry Officer but also in course of hearing before this Tribunal but he has failed to avail the opportunity grossly.

8. Accordingly, after careful consideration of all the facts and circumstances I find no sufficient ground to hold that management illegally, arbitrarily and violating the principle of natural justice dismissed him from service. Accordingly, the concerned workman is not entitled to get any relief.

In the result, the following award is rendered :—

“The action of the management of Jealgora Colliery of M/s. BCCL in dismissing Sri Kamal Kishore Vishwakarma, MCL from service is justified. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2003

का. आ. 3331.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इण्डियन एअरलाइंस के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, मुम्बई के पंचाट (संदर्भ संख्या 94/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-03 को प्राप्त हुआ था।

[सं० एल-11012/83/2000-आई.आर.(सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 7th November, 2003

S.O. 3331.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 94/2000) of the Central Government Industrial Tribunal/Labour Court-II, Mumbai now as shown in the Annexure

in the Industrial Dispute between the employers in relation to the management of Indian Airlines and their workman, which was received by the Central Government on 6-11-03.

[No. L-11012/83/2000-IR (C-I)]

S.S. GUPTA, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), MUMBAI

#### PRESENT:

SHRI S. N. SAUNDANKAR, Presiding Officer.

Reference No. CGIT-2/94 of 2000

#### EMPLOYERS IN RELATION TO THE MANAGEMENT OF INDIAN AIRLINES

The Regional Director,  
Indian Airlines,  
Western Region,  
New Transport Complex,  
Mumbai-400 099.

V/s.,

Their Workmen

The Regional Secretary,

Air Corporation Employees Union,

Old Airport,

Santacruz (East),

Mumbai-400 029.

#### APPEARANCES:

FOR THE EMPLOYER : Ms. Pooja Kulkarni,  
Advocate.

FOR THE WORKMEN : Mr. N.G. Helekar,  
Advocate.

Mumbai, dated 23rd September, 2003

#### AWARD

#### PART—II

By the interim Award dated 7-10-2002, this Tribunal held that the domestic enquiry conducted against the workman Mahamunkar was as per the principles of natural justice and the findings of the Inquiry Officer are not perverse. Consequently point as to whether punishment of dismissal imposed on the workman is justified and proper in the light of the action of the management Indian Airlines, in so far of issues 3 and 4 remains to be adjudicated by this Tribunal.

2. The punishment as above was imposed on the workman on the charge of theft of three wrist watches and cash of Rs. 85,000/- from a registered baggage of a passenger in collusion with the co-workers namely Vaim



and Satam on 5-1-1995. According to the workman the criminal case on the incident of theft is pending before the Court, his past record is unblemished, he put about 15 years service as Helper/Loader and in that context punishment imposed on him is disproportionate. It is his further contention that co-accused Mr. Vaim though was found guilty along with workman in the joint enquiry, management continued him in service with lesser punishment, however he has been singled out for punishment of dismissal thereby, he was discriminated. On the other hand, the management's contention is that in a delicate industry like Indian Airlines, where faith is important, since workman found guilty for commission of theft of registered baggage of the passengers, is a grave offence attracting major misconduct resulting in dismissal. It is pointed out that even one single misconduct like theft, warrants dismissal. It is therefore, contended that the punishment imposed is apt and adequate.

3. In so far as issues nos. 3 & 4 to be adjudicated by this Tribunal referred to supra Workman filed affidavit in lieu of Examination-in-Chief (Ex. 25) and closed oral evidence vide purshis (Ex. 26). Management Company did not lead oral evidence vide purshis (Ex. 27).

4. Workman filed written submissions Ex. 31 along with copies of rulings and the management Ex. 32. On perusing the record, the written submissions and hearing the counsels, I record my findings on the issues for the reasons mentioned below :

ISSUES	FINDINGS
3. Whether the action of the management of M/s. Indian Airlines Ltd. in dismissing Shri H. M. Mahamunkar from the services of the Indian Airlines is justified and proper?	No
4. What relief the workman concerned is entitled?	As per order below.

#### REASONS

So far power under Section 11-A of Industrial Disputes Act is concerned. Their Lordships of Supreme Court in *Mithilesh Singh V/s. Union of India & Ors.* 2003 SCCL&S 271 observed:

"the scope of interference with punishment awarded by Disciplinary Authority under Section-11-A of the Industrial Disputes Act is very limited and unless the punishment appears to be shockingly disproportionate, the Court cannot interfere with the same".

5. As stated above, according to workman punishment of dismissal imposed upon him is disproportionate to the proved charge of theft. It is well settled that penalty must commensurate with the gravity of offence charged and that discretion conferred by Section 11-A of Industrial Disputes Act on the Tribunal is to be exercised considering the overall evidence. Their Lordships of Supreme Court in case *Mithilesh Singh V/s. Union of India* referred to above, pointed out that the scope of interference with punishment awarded by the Disciplinary Authority is very limited and it is for the employer concerned to show how the penalty is disproportionate. It is seen from the record that case of theft in connection with workman and others is pending in Court. In the enquiry proceedings the charge of theft has been proved. At this juncture, the Learned Counsel Mr. Helekar for the workman submitted that along with workman another worker namely Vaim was charge sheeted and was found guilty, however the management continued him in service with lesser punishment whereas, he is singled out for severe punishment and thereby he was discriminated. Their Lordships of Supreme Court in case *Tata Engineering and Locomotive Co. Ltd. V/s. Jitendra PD. Singh & Anr.* (2001) 10 SCC 530 observed "it would be denial of justice to the appellant if he alone is singled out for punishment by way of dismissal from service". In the case in hand, as stated above co-accused though found guilty was not dismissed, whereas workman has been dismissed, therefore, in view of the above said decision, justice has been denied to workman. In this context the punishment imposed if looked, certainly needs interference by this Tribunal.

6. According to workman his past record is unblemished. No past adverse has come forward through management. It is therefore, clear that his past record is unblemished. At this moment, the learned counsel for management Ms. Pooja Kulkarni submits that one single misconduct like theft warrants dismissal, relying on *Chandrakant K. Patil V/s. Union of India & Ors* 1995 II CLR 445. As stated above, criminal case of theft is pending before the Court and that the workman has been singled out and considering his long service about 15 years as Loader, to my view punishment of dismissal imposed upon the workman is rather harsh and disproportionate hence need to be interfered and that with holding of two increments in future is apt and proportionate punishment and the same needs to be imposed.

7. Workman admits in cross examination para 8 that he does labour work and earns Rs. 1,500 per month, thereby he is gainfully employed, consequently, question of payment of back wages does not arise. Considering the relevant aspects discussed *supra* the punishment imposed being disproportionate, consequently action of the management is improper and unjustified, issues are answered according and hence the order :

**ORDER**

The action of the management of M/s. Indian Airlines in dismissing the workman Shri H. M. Mahamunkar is improper and unjustified and that punishment of withholding of two increments in future is apt and adequate and the same is imposed upon him instead of punishment of dismissal.

Management Indian Airlines is directed to reinstate the workman in service with continuity in service, however, without back wages.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2003

का. आ. 3332.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ब्रिटिश गैस एक्सप्लोरेशन एण्ड प्रोडक्शन इंडिया लि. के प्रबंधन के संबंध में नियोजकों उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-I, मुम्बई के पंचाट (संदर्भ संख्या 37/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-2003 को प्राप्त हुआ था।

[सं० एल-30012/109/97-आई.आर.(सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 7th November, 2003

S.O. 3332.—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/98) of the Central Government Industrial Tribunal/Labour Court-I. Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of British Gas Exploration and Production India Ltd. and their workman, which was received by the Central Government on 6-11-2003.

[No. L-30012/109/97-IR (C-1)]

S.S. GUPTA, Under Secy.

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1) MUMBAI****PRESENT:**

SHRI JUSTICE S. C. PANDEY, Presiding Officer.

**REFERENCE NO. CGIT-37/1998**

**PARTIES:** Employers in relation to the management of M/s. British Gas Exploration and Production India Ltd. (substituted instead of M/s. Enron Oil and Gas India as per paragraph 2 of this Award)

**AND**

Their Workmen

**APPEARANCES:**

For the Management : Sh. B.G. Goyal & G.L. Govil, Advocates

For the Workman : Sh. Abhay Kulkarni, Adv.

State : Maharashtra

Mumbai, Dated the 24th October, 2003.

**AWARD**

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section 1 and sub section 2A of section 10 of Industrial Disputes Act, 1947 (the Act for short) for resolving the Industrial Dispute between M/s. Enron Oil and Gas India Ltd. (the company for short) and Sh. Joseph Rodrigues (the workman for short). The terms of reference as given in the Schedule are as follows :

“Whether the action of the management of M/s. Enron Oil & Gas Ltd. in terminating the services of the workman Sh. Joseph Rodrigues is justified? If not, to what relief the workman is entitled?”

2. At the outset it may be stated that the Counsel for the workman, Sh. Abhay Kulkarni filed an application dated-23-6-2003 for substituting the name of M/s. British Gas exploration and Production India Ltd. instead that of M/s. Enron Oil and Gas India Ltd. because the former had acquired the assets and liabilities of the later during the pendency of this reference. The learned counsel for M/s. Enron Oil and Gas India Ltd. has not disputed the substitution. On the other hand Mr. Adriam Williams, the Personnel Manager of British Gas Exploration and Production India Ltd. has filed a reply to the application accepting the fact that this company had acquired 30% stake of M/s. Enron Oil Gas India Ltd. in Panna Mukta and Tapte Oil field for joining the joint venture with ONGC Ltd. and Reliance Industries from 15-2-2002. For this reason, it did not have any objection to substitution of its name instead of M/s. Enron Oil and Gas India Ltd. Consequently the aforesaid, the application is allowed and it is directed that the name of M/s. British Gas Exploration and Production India Ltd. shall be substituted in place of M/s. Enron Oil and Gas Company as first party to the reference.

3. It was claimed by the workman in his statement of claim, that he joined the services of the company from 17th April, 1995 as an Office Assistant and was paid Rs. 2,800 as monthly wages. It is the case of the workman that on 30th November, 1995 he was asked by the Superior Officers of the Company not to attend the office from 1st December,

1995. By that time, it was pleaded by the workman that he had worked for 238 days continuously. The workman stated that his devotion to duty and good character were proved by a certificate issued by the company. The workman claimed that his services were terminated orally without assigning any reason before he could complete 240 days for he would have been entitled to the benefit of Section 25F of the Act read with Section 25B thereof. According to the workman, the motive for termination on the part of the company was ulterior and *malafide*. The workman asserted that the nature of his job was permanent and perinial. It was claimed that the aforesaid claim was substantiated by the fact that Sarvashri Kaushik, Vijay and Miss Tahal Ramani were employed by the company for performing the functions of workman after his termination. The workman pleaded further that Sh. Andrew Fernandes who was appointed later than him was retained by the company. It was alleged that termination of services of workman being illegal, a demand for reinstatement was admitted for Conciliation. However, the parties could not settle the dispute in those proceedings. On failure of Conciliation a report to that effect was sent to Central Govt. which referred the dispute to this tribunal. The workman claimed that the termination of his services was illegal and unjustified. It was made with view to avoid the operation of section 25F read with Section 25B of the Act. It was claimed that junior persons have been retained in service. It was further asserted that Section 66 of the Bombay Shops and Establishment Act, 1948 has been violated. It was claimed that termination was illegal and void, and consequently, the workman be awarded reinstatement with full back wages with effect from 30th November 1995 or any other suitable relief be given to the workman.

In its written statement, the company stated that reference is liable to be rejected on the ground of laches. The services of the workman were terminated from 30-11-95. The workman filed a complaint before 5th Labour Court, Bombay under M.R. T.U. & P.U.L.P. Act after 1 year. An objection was raised on the question of maintainability of that complaint before that Court by the company. Thereupon, the workman withdrew the complaint and raised the dispute. It was further asserted that the company acted as an operator for the joint venture of Oil and Natural Gas Corporation and Reliance Industries Ltd.

It was engaged in the activity of exploration and production of oil on their behalf and itself. It entered into contracts dated 22-4-94 with the Consortium of the aforesaid companies for development of Panna Mukta Fields and Mid South Tapti fields. It was alleged that for the purpose, the company had opened its office temporarily at Amiya Apartments, 63-A, Linking Road, Santacruz (West) Mumbai. However, this temporary office was shifted to Midas Sahar Plaza, Kandivita M. V. Road, Andheri (East) Mumbai. It is alleged that workman was appointed at Santacruz Office. His appointment was casual. The job of

the workman amounted to (i) delivering letters to outside parties, (ii) bringing lunch to visitors from hotels (iii) Doing other sundry jobs. The workman was a daily wager. He was paid Rs. 125/- per day. He was not given any letter of appointment as he was employed orally. It was the practice of the company to give letters of appointment to its regular employees. The wages of the workmen were calculated by the company as a daily rated employee at the rate of Rs. 125/- per day. He was not given consolidated wages for a month. However, when the workman was required to do extra work beyond his normal hours, he was paid wages overtime work. In course of time, the volume of the company's work grew and it was found that workman could not cope up with the extra work. Consequently, the services were handed over to professional Caterers and Carrier service of the company with effect from 30-4-95. Therefore, the workman's service were no longer required. It was denied that the workman was employed as an Office Assistant. It was denied that the workman was appointed on permanent post or that he was told that his post shall be made permanent. It was asserted that the services of the workman were of casual nature and his services were terminated when they were not required. The workman was not punished and therefore, no enquiry was held. It was asserted in the written statement paragraph 4(c) that the certificate dated 01-7-1996 was issued by Mr. P.E. Lavia, General Manager, Drilling much after the services of the workman stood terminated on 30-11-1995. It was obtained by the workman for the purpose of obtaining employment else where. It was asserted that the workman obtained a job on the basis of the certificate but abandoned it. The company stated that workman had worked for 228 days between 17-4-95 to 30-4-95 and not 238 days. The company further submitted that the services of Mr. Kaushik Mehta and Vijay Deokar and Hema Tahalramani could not be compared with that of the workman. In short it was that all the three persons were more qualified. They were not daily rated employees. Mr. Andrew Fernandez was appointed on 01-4-95 prior to the workman as an Office Asstt. He was not junior to the workman. It was denied that nature of the job of the workman was permanent and perinial in nature. All other allegations in the Statement of claim were denied.

5. It appears from the order sheet dated 04-3-99 that workman had stated that he did not wish to file the rejoinder to written statement. He filed certain documents and then he filed his affidavit on 11-6-99. Thereafter, on 01-9-99 rejoinder was filed on behalf of the workman. The workman shifted his stand in his rejoinder. The workman claimed that he was employed with effect from 4th April, 1995. He was refused employment from 1st December, 1995. Therefore, there was violation of Section 25F of the Act and his termination was *void abinitio*. The workman stated that he reported for duty for many days but was not allowed to resume duties. It was stated that on the allegations made in the written statement that termination of the services of

the workman on account of increase in the volume of business of the management of the company and acquisition of specialized services for the job done by him, amounted to change within Section 9-A of the Act for item Nos. 10 and 11 of the Fourth Schedule. It was stated that this was unfair labour practice covered by items No. 5 (a) (d) (f) and 13 of the Fifth Schedule of the Act. It was further stated there was violation of Section 25G, 25N and Rules 76, 76-A and 77 of the Rules. There was violation of Model Standing Orders also.

6. The company denied the claim of the workman in its reply stating that the Statement of the workman in the rejoinder that he was employed for 4-4-1995 appeared to be false. It placed certain documents on record to prove the falsity of the claim. It was stated that in the rejoinder this claim appeared to have been made for the first time because Mr. P. Ilavia had given the certificate stating that he worked from 4-4-1995. It was said that the certificate was not accurate. It was not an official work certificate but purported to be a testimonial. There were other facts stated in the reply. They need not detain us as because they were in the nature of evidence. The allegations regarding violation of Section 9-A of the Act or those regarding commission of unfair labour practice were controverted in the reply.

7. This tribunal did not frame issues as the controversy was clear. The workman filed his affidavit in lieu of examination in chief. He was cross examined by the counsel for the company. He further filed the affidavit of Mr. Fernandez who was also cross-examined. After that the workman closed its evidence. The company filed the affidavits of Mr. V. L. N. Ro. Ms. Sabita Gracias. The company closed its case after both the witnesses were cross-examined.

8. At present this tribunal is not dealing with the nature of the appointment of the workman. It is proposed to deal with it later. The point that arises for consideration is whether the workman has established to satisfaction of this tribunal that termination of services of the workman amounted to retrenchment in violation of Section 25-F of the Act within the meaning of Section 2(oo) of the Act. It is not in dispute that services of the workman were not terminated by way of punishment for any misconduct. The workman has stated that he was appointed as an Office Assistant for performing the work of permanent nature. He claimed that he was retrenched in violation of Section 25-F of the Act because he had functioned as an Office Asstt. from 4-4-1995 to 30-11-1995. Section 25-B of the Act defines 'continuous services' for the purpose of Chapter V-A of the Act. Section 25-F (which is in Chapter V-A of the Act) becomes operative only when the workman has worked continuously not less than one year. This is clear from plain terms of that section. However, for the purpose of Chapter V-A, Section 25-B (2) of the Act has made a

deeming provision. It is the nature of proviso to Sub-section (1) of Section 25-F. Sub-section (1) of Section 25-B of Act defines continuous service to mean the uninterrupted service for the period except where the interruption is on account of sickness or authorized leave, or an accident or strike which is not illegal, lock out or cessation of work, which is not due to any fault of the workman. The Sub-section 2(a) of Section 25-B of the Act says *inter alia* that the workman who is not continuously worked for one year as given in Sub-section (1) shall be deemed to be in service for a period of one year provided during the 12 calendar months preceding date from which the calculation has to be made, has actually worked for the employer for not less than one hundred and ninety days under ground in a mine and two hundred and forty days in other cases. (We are not concerned herewith the period of six months or the explanation. They have been omitted from consideration.) It is obvious that workman was not working underground in mine, therefore, he ought to have proved that he had worked for 240 days continuously as an Office Asstt. The workman had stated in his statement of claim that he was appointed on 17-4-95. He did not amend the Statement of his claim filed on 14-10-98. He had also filed the affidavit dated 11-6-99, wherein he had stated that he was appointed on 17-4-95. The rejoinder was filed on 1-9-99. Then only it was stated that he was appointed on 4-4-1995. In his fresh affidavit dated 15-3-2002, the workman should have explained how he was saying that he was appointed on 4th April, 1995 and how did he commit the mistake. The second affidavit is significantly silent about the mistake. He was cross-examined on this question. He stated that in his affidavit the dated 17-4-95 was a misprint. The witness was shown notice served by Poojary Advocate to the company Exhibit M-22. He denied that the notice was sent under his instructions. Similarly, he denied that another notice Exhibit M-23 was sent under his instructions. The workman was shown Ex-M.24 a complaint filed by him and M.R.T.U & TULP Act. He admitted his signature on that document. He admitted the exhibit M25 dated 17-3-97 was filed under his signature. The workman has not examined Poojary Advocate for showing that Exhibit M22 and Exhibit M23 were not sent under his instructions. The inference is that they were sent under his instructions. These two notices show that the workman had claimed that he was appointed on 17-4-95. This aspect of the matter is further confirmed by the fact that the workman had filed complaint before the Labour Court, Bombay under M.R.T.U & TULP Act alleging that he was appointed on 17-4-95. The workman has not given any satisfactory explanation for deviation from his consistent conduct. It has been argued that workman was given a letter of appointment in writing, but the same could not be produced before the tribunal because it was taken back by the Administrative Manager. This explanation appears to be an after thought. The workman did not say in his statement of claim that he was appointed by an order/a letter in writing. If there was one, he could

not have omitted to mention it. Secondly, the affidavit dated 11-6-99 does not mention that he was appointed by a letter/order given to him in writing. On the other hand his aforesaid affidavit in paragraph clearly indicates that at that stage his case was that he had not worked for 240 days. Further, his affidavit in paragraph 5 relies on the document filed by the company to show that he was not a daily wager. This tribunal cannot understand how the workman missed to state in his earlier affidavit about the letter of appointment and stated that he was appointed on 17-4-95. Apart from the aforesaid facts, the company placed on record the letter dated 6th April, 1995 to the effect that workman was required to appear for interview on 11th April 1995. (Marked as Exhibit M3). It is true that John Fernandes had filed the affidavit supporting the case of the workman. He was the administrative manager of the company at that time. He denied that he had instructed Sarita Gracias to issue letter dated April 6, 1995 by signing it on his behalf. Sarita Gracias had filed the affidavit contradicting John Fernandes. She stated that she had signed the letters on behalf of Fernandes. She further stated contradicting Fernandes that interview was held on 11-4-95. Thus, the testimony of Fernandes who had admittedly some grievance against the company, and was inclined to be friendly, toward the workman appears to be tainted. Mr. Fernandes had gone to the extent of supporting the workman stating that it was he who had taken back the letter of appointment from the custody of workman at the instance of Mr. Slaughter. It has been argued that Mr. Fernandes had an axe to grind against the company, and he was the members of same musical band, as the workman and consequently his evidence should not be considered as worthy of credence. This tribunal ignores these circumstances. It gives more weight to the other preponderance of probabilities. The workman has not been able to show that his presence was marked in the muster roll prior to 17-4-95. Moreover, stronger evidence could be produced by showing that workman was paid wages between 2-4-95 to 17-4-95 for the work done by him. This evidence would be clinching piece of evidence. In absence of this evidence, the workman had relied only upon the so called work certificate issued by P.E. Elavia (Exhibit W1). Ex-W 1 dated July 1, 1996 appears to be a personal testimonial issued by Mr. Elavia. He purported to give a certificate regarding the work of me workman. Mr. Elavia had given his certificate in July 1996. He was not examined to show how he gave date to be 4th April 1995. It could be inaccurate particularly when the certificate was given after 7 months of discharge. This tribunal has noticed the circumstances that militate against the theory that workman was appointed on 4-4-1995. This tribunal holds on the basis of broad preponderance of probabilities without entering into many fine points against the workman, that he was appointed on 17-4-95. In this connection, this tribunal does not accept the testimony of the workman and John Fernandes. On the other hand, the evidence of V.L.N. Rao, who was working as a Personnel

Manager of the company is forth right. Sarita Gracias has also proved that the letter dated 6-4-95 dictated to her by Mr. John Fernandes. The interview was held on 11-4-95. Thus, it is held on the basis of weight of evidence that workman was appointed on 17-4-95 orally and not on 4-4-95. It is not in dispute between 17-4-95 to 30-4-95 the workman had not completed 240 days. He completed 228 days. Therefore, oral termination of his services on 30-4-95 does not amount to retrenchment in violation of Section 25-F of the Act. The workman was unable to prove that he was appointed permanently. The company has filed several vouchers proving that he was a daily rated employee. This tribunal shall show in the sequel that job of workman was of casual nature.

9. The next contention raised on behalf of workman is to the effect that on the pleadings of the company itself show that services of the workman were terminated because of expansion of its office operations at Santacruz and consequently the workman was unable to cope up with the work attached to him. It was argued that Section 9-A of the Act read with item No. 10 and 11 of the Fourth Schedule shall be attracted. It would therefore, proper to reproduce the exact pleadings of the company. "The First Party says and submits that its earlier office at Santacruz was in a formative stage and gradually the operations started expanding at a speedy rate and accordingly the volume of work increased substantially. It was then that the First Party realized that the Second Party was unable to cope up with the volume of work and that the need for engaging the services of professional caterers and courier services and accordingly the First Party terminated the services of the Second Party with effect from 30-11-1995."

If these be the pleadings then we have to see whether the company was required to give notice of change under Section 9-A. Section 9 A of the Act is as follows :

"9-A. *Notice of Change*:—No employer, who purposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change :—

- (a) without giving to the workman likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or
- (b) within twenty-one days of giving such notice:

Provided that no notice shall be required for effecting any such change :—

- (a) Where the change is effected in pursuance of any [Settlement or award] ; or
- (b) Where the workmen likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal)



Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Service (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply.”

Ignoring the proviso for our purposes, it is clear that employer is prohibited from affecting a change in the conditions of service of a workman mentioned in the Fourth Schedule unless a notice is given of change and 21 days expired after service of notice of change. It is argued admittedly that the termination of services of workman on account of the fact that he could not fulfill his obligation because of expansion of the office of the company. Such a change in service conditions of the workman was covered by item No. 10 and 11 of the Fourth Schedule. These items reads as under 10. Rationalisation, standardization or improvement of plant or technique which is likely to lead to retrenchment of workmen. 11. Any increase or reduction (other than casual) in the number of persons employed or to be employed in any occupation or process or department or shift. [not occasioned by circumstances over which the employer has no control].

10. In the opinion of this tribunal item No. 10 of the Fourth schedule is attracted when it relates to plant or technique. The pleadings of the company refer to the establishment which was being used as office. Item No. 11 does not apply to casual workmen. The workman has not taken the plea in his Statement of claim regarding the violation of section 9A of the Act. However, it is necessary to record a finding if the job of the workman was of casual nature within the meaning of item No. 10. In this connection, the company has filed an undated application filed by Joseph Rodrigues marked as Annexure A to the reply of rejoinder. The workman in cross-examination admitted that he had applied for the post of office boy. The aforesaid document (Annexure A) appears to be that application. Although, the workman stated that he was not appointed against casual vacancy, there is overwhelming evidence in support of the case of the company that his appointment was casual. The word ‘casual’ has not been defined in the Act. Therefore, ordinary meaning has to be given. It means irregular appointment. The following circumstances show that the workman was not regularly appointed.

- (i) He was orally appointed. In this connection, the tribunal has not accepted the evidence led by the workman that there was an order in writing in earlier paragraphs.
- (ii) The company has brought on record Exhibits M-3, M-1 and M-3. They are the appointment letters of Hema Tehalramani, Kaushik Mehta

and Andrew Fernandes respectively. A perusal of these letters show that the company had elaborately mentioned the terms of contract employment with the offer of employment. These documents also show that the company utilized elaborate procedure regarding the regular appointments in case of aforesaid persons. The letters of appointment of Mr. Vijay Deokar M 15 tells the same story. In fact, if we carefully study these documents M1 to M18 it would appear, the company took considerable pains to satisfy itself about suitability of the employee before making permanent appointment. It took care to define the nature of duties, the terms of contract and the fixed the monthly salary in each workman the order of appointment. The evidence of V.L.N.Rao, who had worked as Personnel Manager had stated in support the above in paragraph 11 that those who applied for permanent posts were required to file application forms. He stated paragraph 12 that he had filed documents in respect of Hema C.Tahalramani, Telephone Operator cum receptionist. Mr. Kaushik Mehta, Andrew Fernandes and Mr. Vijay Deokar, Mr.Rao was cross examined in details, but his testimony regarding the aforesaid appointments was not challenged.

- (iii) The workman himself admitted in cross examination that he was appointed as a daily wagger at rate of Rs.125/- per day. He evasively denied that he did not do over time. He corroborates the Mr.Rao’s deposition in paragraph 3 that he and Rocky Fernandes were appointed on daily wages of Rs.125/-. The witness further added that they were paid Rs.190/- per day if they worked on Saturday or Sunday. This tribunal has already pointed out that the regularly appointed workmen were given monthly wages.
- (iv) The next aspect of the appointment is that he was working as an Office boy. He was not given any special work. The evidence on record suggests that workman along with Mr.Rocky Fernandes was working as an Office boy. He was performing sundry jobs.
- (v) The workman has admitted in cross examination that he was paid by vouchers. He also stated that certain initial payment were made by cheque. He produced Ex-W5 a cheque of Rs.1,630/- and stated that for this cheque he had signed the voucher. He admitted that he received pay through cash vouchers. He has

filed W-3 which shows that he was paid Rs. 190/- for working on Saturday.

- (vi) This tribunal finds as per affidavit of Mr. Rao the workman was working between 8 AM to 5 PM. He was required to do the cleaning job, to prepare tea and coffee. He was delivering letters, taking order for lunch and keep the food warm after bringing it from the restaurant. He was doing this. It was claimed by the workman that his main work was preparing Xerox copies of records, faxing the weather reports and receipt and dispatch documents. He used to relieve the telephone operator. However, the workman failed to prove these facts. He admitted that he was required to clean the tables and put mineral water. However, he denied that he was required to bring lunch. He admitted that he used to make list of the requirements of the staff but denied that he was not required to serve the lunch. He stuck to his version. He admitted that Dattaram Humbe was a Clerk on the Accounts Deptt. Mr. John Fernandes, the defence witness who was working in the company had not said any word regarding the nature of work. This tribunal after considering the entire circumstances in the case finds that the preponderance of probabilities on that the workman was not stating true facts. The version of Mr. Rao is accepted and a finding is recorded that duties of the workman were not of clerical nature. He lent a helping hand by arranging for the lunch of the affairs and dispatching the letters. He did not do any specific clerical work. He was a casual (irregular) employee. His work was not of permanent nature.

11. The next contention raised on behalf of the workman is that Section 66 of Bombay Shops and Establishments Act, 1948 has been violated when the services of the workman were terminated. In fact the workman has not pleaded specifically how the aforesaid Act was applied to the case beyond saying in paragraph 6(1) of Statement of claim that Section 66 of the aforesaid Act was violated. In fact the company had denied that there was a breach and submitted that even if there be breach it would be of technical nature. Although, there was no formal pleadings on the part of the workman, that he was working in a 'Commercial establishment' as defined by the Section 2(4) of the Bombay Shops and Establishment Act, 1948. However, the pleadings of the parties as well as evidence on record led by both the parties shows that the workman was working in the office of the company at

Santacruz which was performing operations of oil exploration for joint venture of ONGC and Reliance Industries Ltd. It would be "Commercial Establishment" of the company and shall be covered by the definition of 'Establishment' within the meaning Section 2(8) of Bombay Shops and Establishment Act. It is true that if Shops and Establishment Act could be applied in these proceedings then in absence of notice under section 66(b) of the Bombay Shops Establishment Act, 1948 would be fatal to the case of the company. It is a local Act dealing with employer-employee relationship in the State of Maharashtra. The Act on the other hand deals with industrial disputes. The two acts are not in *parimateria*. They derive their leitmotif from the entries in the concurrent list. The Act is mainly concerned with entry No. 22, 23 and 24 whereas the Bombay Shops and Establishments Act, 1946, is welfare measure covered by entry Nos. 23 and 24 of the Constitution. Of course, the entries overlap but the Act in *pith and substance* a legislation for resolving an industrial dispute. Both the Act and Bombay Shops and Establishment Act operate in different field. Both the enactment were pre constitution laws and are covered by concerned under Article 372 of the Constitution. Unlike other Acts of similar nature in other State the Bombay Shops and Establishment Act does not provide any forum for setting aside illegal termination in violation of Section 66 of the Act. However, violation of Section 66 of the Bombay Shops and Establishment Act, 1948 has been made punishable under 52(f) of that Act. It appears that idea was to create a penal liability. Even so, creation of prohibitive injunction by statute may give rise to a civil remedy because violation of that injunction renders an Act totally void. Nevertheless, because termination may be deemed to be void for violation of Shops and Establishment it does not become an Industrial Dispute Act, 1947 under the Act. This tribunal is competent to give an adjudicatory award only in actual industrial dispute or deemed industrial dispute under section 2-A of the Act. It cannot usurp the jurisdiction of proper court while deciding the industrial dispute. In the opinion of this tribunal the violation of section 66(b) of the Bombay Shops and Establishment Act is not an industrial dispute and therefore, it cannot be raised before this tribunal. The workman may have general remedy under Civil law or even a Constitutional remedy under Article 226 of the Constitution. But he cannot avail remedy under the Act. The workman raised the dispute in this forum where industrial disputes are adjudicated upon. He cannot take aid of another Act which does not deal with industrial disputes. The learned counsel for the workman has drawn attention of this tribunal to the decision of Bombay High Court in the case of N.L. Mehta Cinema Ent. P. Ltd. vs. Vijay G. Shivgan 1988 1 CLR 416. The case is distinguishable because the workman had sought his remedy under the

general law by filing a writ petition directly in the High Court for the violation of section 66 of the Act. He had not chosen a remedy under the Act. The case of Krishna Chandra Yadav vs. Presiding Officer Labour Court 2003 I CLR 147 is case under the Bihar Shops and Establishment Act. That Act provided a remedy under section 26 of the Act before Labour Court. The Labour Court granted the remedy of reinstatement. In writ petition the order was set aside. In further appeal the Division Bench restored the order of the Labour Court. The proceedings in that case were not taken up under the Act, before an industrial Tribunal. Thus, that case has no application. This tribunal has not cited several decisions cited either parties for the reason the facts of this case themselves resolve the dispute. It is unnecessary to cite any decision when the facts and law are plain and simple.

12. This tribunal now answers the reference by saying that the termination of services of the workman Joseph Rodrigues was within the bounds of law. There is no violation of the Act for which this industrial dispute was referred to this tribunal. This tribunal cannot grant any relief to the workman under the facts and circumstances of case. No costs.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 10 नवम्बर, 2003

का. आ. 3333.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ बीकानेर एंड जयपुर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/लेबर कोर्ट, जोधपुर के पंचाट (संदर्भ संख्या आई. डी. नं. 26/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2003 को प्राप्त हुआ था।

[सं० एल-12012/249/97-आई.आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 10th November, 2003

S. O. 3333.—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 26/2001) of the Industrial Tribunal/Labour Court Jodhpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Bikaner & Jaipur and their workman, which was received by the Central Government on 07-11-2003.

[No. L-12012/249/97-IR (B-1)]

AJAY KUMAR, Desk Officer

## अनुबन्ध

### औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय जोधपुर

पीठासीन अधिकारी :— श्रीमती निशा गुप्ता,  
आर.एच.जे.एस.औ. वि. (केन्द्रीय)  
सं. :— 26/2001

सत्यनारायण स्वामी पुत्र श्री नारायणदास स्वामी जरिये महामंत्री रेलवे कैजुअल लेबर यूनियन, डागा स्कूल के पास, बीकानेर।

.....प्रार्थी

बनाम

1. दी जनरल मैनेजर, स्टेट बैंक ऑफ बीकानेर एंड जयपुर हैड ऑफिस तिलक मार्ग, जयपुर।
2. शाखा प्रबन्धक, स्टेट बैंक ऑफ बीकानेर एंड जयपुर भुजिया बाजार, बीकानेर।

.....अप्रार्थीगण

उपस्थिति :—

- (1) प्रार्थी प्रतिनिधी हाजिर नहीं।
- (2) अप्रार्थी प्रतिनिधी श्री पी. के. लोहरा उप.

अधिनिर्णय

दिनांक 26-8-2003

श्रम मंत्रालय, भारत सरकार, नई दिल्ली ने अपनी अधिसूचना क्रमांक एल. 12012/249/97- आई.आर. (बी-1) दिनांक 5 जनवरी, 2001 से निम्न विवाद वास्ते अधिनिर्णय इस न्यायालय को प्रेषित किया है :—

“Whether the action of the management of State Bank of Bikaner & Jaipur, in terminating the services of Sh. Satya Narayan and Shri Shyam Sunder is justified? If not, to what relief the workmen concerned are entitled?”

उक्त रेफरेन्स इस न्यायालय में प्राप्त होने पर दर्ज रजिस्टर्ड किया जाकर पक्षकारों को जरिये नोटिस आहुत किया गया, प्रार्थी ने अपना मांग-पत्र प्रस्तुत किया जिसका जवाब अप्रार्थी की ओर से पेश किया गया तथा यह प्रकरण वास्ते शपथ-पत्र प्रार्थी हेतु 19-5-03 को नियत किया गया लेकिन प्रार्थी की ओर से 19-5-2003, 10-7-2003, व आज भी शपथ-पत्र प्रस्तुत नहीं किया, आज स्वयं प्रार्थी या उसका कोई प्रतिनिधी भी हाजिर नहीं है जिससे यही प्रतीत होता है कि प्रार्थी इस प्रकरण को आगे चलाने में कोई रुचि नहीं रखता है तथा उसके व अप्रार्थी के मध्य अब कोई विवाद शेष नहीं रह गया है। अतः समस्त तथ्यों एवं परिस्थितियों को देखते हुए इस प्रकरण में कोई विवाद नहीं रह जाने का अधिनिर्णय (नोडिस्मिडुट एवार्ड) पारित किया जाता है।

यह अधिनिर्णय आज दिनांक 26-8-2003 को खुले न्यायालय में हस्ताक्षर कर सुनाया गया।

निशा गुप्ता, न्यायाधीश



नई दिल्ली, 10 नवम्बर, 2003

**का. आ. 3334.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/लेबर कार्ट, जयपुर के पंचाट (संदर्भ संख्या सीजीआईटी 38/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07-11-2003 को प्राप्त हुआ था।

[सं० एल-12012/58/2000-आई.आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 10th November, 2003

**S.O. 3334.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Case No. CGIT- 38/2000) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 7-11-2003.

[No. L-12012/58/2000-IR (B-I)]

AJAY KUMAR, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JAIPUR

Case No. CGIT-38/2000

Reference No. L-12012/58/2000 IR-(B-I)  
dated 27-6-2000

Sh. Babulal  
R/o Sitabari, Kamani Road,  
Jhotwara, Jaipur (Raj.)

*Versus*

Assistant General Manager,  
State Bank of India, Zonal Office,  
Tonk Road, Jaipur (Raj.)

#### PRESENT:

SHRI R.C. SHARMA, Presiding Officer

For the applicant : Shri R. C. Jain

For the Non-applicants : Sh. Yashpal Garg

Date of award : 08-10-2003

#### AWARD

The Central Government in exercise of the powers conferred under clause D of sub-Section 1 and sub-Section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (for

short 'The Act') has referred the following industrial dispute for adjudication to this Tribunal which runs as under :—

“Whether the action of the management of State Bank of India, Jaipur in terminating the services of Shri Babulal, Safai Karamchhari w.e.f. 23-3-1999 is justified? If not, to what relief is the workman entitled?”

2. The workman Shri Babulal Cherwal in his statement of claim has averred that he was employed as Safaiwala on 28-4-1997 by the non-applicant management who continuously worked up to 22-3-1999. But on 23-3-1999 his service was terminated in violation of the provision under Section 25-F of the Act. He has further stated that the junior employees to him were retained and after his termination the fresh employees were appointed, whereby the management has acted in violation of Sections 25-G & 25-H of the Act. He has prayed to reinstate him in the service with all the consequential benefits. Resisting the claim, the non-applicant management in their reply have pleaded that workman was not employed by the management and that on account of the leave of the regular employee of the bank he had worked with the management as the casual wage.

On pleadings of the parties the following points for determination were framed :—

1. Whether the applicant-workman was appointed to the post of Cleaning Employee (Safaiwala) on 28-4-97 on the daily wages by the non-applicant, who continuously worked up to 22-3-1999? BOA

2. Whether the non-applicant have violated the provision under Section 25-F of the Industrial Dispute Act, 1947 by not awarding the compensation to the workman? BOA

3. Whether at the time of the termination of the service of the workman, the other workmen junior to him were working in the office of the non-applicant bank and after the termination of the service of the workman, new workmen have been appointed by the non-applicants and thus, non-applicants have violated the provisions under Sections 25-G & 25-H of the Industrial Dispute Act, and rules 77 & 78 under the Act? BOA

4. Whether the termination order dated 23-3-1999 is unjustified and illegal? BOA

5. Whether the applicant-workman is entitled for the reinstatement in the service with all the consequential benefits and with continuity of the service? BOA

6. Whether the present dispute does not fall within the definition of the Industrial Dispute under the Act? BONA

7. Whether the applicant is not a workman in accordance with the definition under Section 2(S) of the Industrial Disputes Act, 1947? BONA

In the evidence the workman has filed the affidavit, who was cross examined on behalf of the non-applicant.

At the stage of the defence evidence the workman on 7-10-2003 moved an application in presence of the representative for non-applicant that the non-applicant management has issued an appointment letter in his favour and now he does not press the claim and any consequential relief thereto and is not willing to further contest the claim.

I have heard the workman and the representative for the non-applicant.

In view of the facts stated in the application dated 7-10-2003 filed by the workman himself, it appears that both the parties have come to a settlement and the workman is not willing to further contest the claim. Accordingly the no dispute award is passed in the instant reference.

R.C. SHARMA, Presiding Officer.

नई दिल्ली, 11 नवम्बर, 2003

का. आ. 3335.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. डी. एम. सी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली, (संदर्भ संख्या 47/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-11-2003 को प्राप्त हुआ था।

[सं० एल-22025/2/2003-आई.आर. (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 11th November. 2003

S.O. 3335.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 47/1998) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of New Delhi Municipal Corporation and their workman, which was received by the Central Government on 10-11-2003.

[No. L-22025/2/2003-IR (C-II)]

N. P. KESAVAN, Desk Officer

#### ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT:  
NEW DELHI

Presiding Officer : Shri B.N. Pandey

Leading Case : I.D. No. 47/1998

Shri Jagdish & Others —Workman/Petitioners

*Versus*

1. Lt. Governor Delhi & others through the Chief Secretary, Delhi Administration, New Delhi.
2. The Administration, New Delhi Municipal Committee, (N.D.M.C.) Town Hall, Parliament Street, New Delhi.
3. The Secretary, New Delhi Municipal Committee, (N.D.M.C.) Town Hall Parliament Street, New Delhi.

— Management/  
Respondents

#### Consolidated Cases :

1. I.D. No. 48/1998  
Shri Jamaluddin & others — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents
2. I.D. No. 49/1998  
Shri Ram Khilari & others — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents
3. I.D. No. 50/1998  
Shri Kaneya Lal & others — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents
4. I.D. No. 51/1998  
Shri Arun Kumar & others — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents
5. I.D. No. 52/1998  
Shri R.L. Gautam & others — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents
6. I.D. No. 53/1998  
Shri Mahtab Singh & others — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents

7. I.D. No. 54/1998  
Shri Chander Bhan & others — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents
8. I.D. No. 55/1998  
Shri Laxman & others — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents
9. I.D. No. 56/1998  
Shri Shyam Lal & others — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents
10. I.D. No. 57/1998  
Shri Gaze Singh & others — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents
11. I.D. No. 58/1998  
Shri Kamla Devi & others — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents
12. I.D. No. 59/1998  
Mohd. Sabir & others — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents
13. I.D. No. 23/2001  
Shri Narayanan & others — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents
14. I.D. No. 24/2001  
Shri Vir Singh & others — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents
15. I.D. No. 126/2000  
Shri Neeraj Bansal & others — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents
16. I.D. No. 34/2001  
Shri Jagana & others — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents

17. I.D. No. 97/1998  
N.D.M.C. Water Supply  
Workers Union — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents
18. I.D. No. 123/1998  
N.D.M.C. Water Meter  
Workshop Association — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents
19. I.D. No. 96/1998  
N.D.M.C. Medical & Health  
Employees Union — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents
20. I.D. No. 118/2003  
Shri M.P. Dwivedi & others — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents
21. I.D. No. 119/2003  
Shri Subhash Chand & others — Workman/  
*Versus* Petitioners  
Lt. Governor, Delhi & others — Management/  
Respondents

### AWARD

All the above mentioned 22 cases are based on almost same and similar facts and involve common question/dispute to be decided between the parties. Hence, with the consent of the parties counsel, all of them have been consolidated, taken and heard together and are being disposed of by this common award which shall govern all of them. I. D. No. 47/1998 is taken as the leading case.

2. At the very outset it is worth to be mentioned that these cases involve industrial dispute but have not been referred by the appropriate government under Section 10 of the I.D. Act, 1947 to this Tribunal. Some of them have been referred by the Hon'ble High Court of Delhi and the rests filed by the claimants directly in the Tribunal. It is alleged that some of the workman being aggrieved from the discriminatory actions of the respondent-management in not giving them equal, reasonable and proper pay scales as being given to other employees in view of the Shiv Shankar Committee Report and the Supreme Court Judgement, filed writ petitions before the Hon'ble Supreme Court which were collectively disposed of by a single order dated 8-5-97 with the directions to each petitioner to avail of such remedies as available to them under law and in

accordance with proper forum. After the said order of the Apex Court, some of the workman-petitioners approached the Hon'ble High Court of Delhi by way of filing writ petitions No. 47/98 to 59/98 and others. There upon the Hon'ble High Court of Delhi, after hearing parties counsel, was pleased to transfer these writ petitions to this Tribunal with a direction that the writ petitions shall be treated as reference under the I. D. Act, 1947 and disposed of in accordance with law. A copy of the said order dated 22-1-98 and 13-2-98 of the Hon'ble High Court of Delhi is also available on the record. The order 22-1-98 runs as "that all the writ petitioners should approach before the Industrial Tribunal and the Industrial Tribunal (Labour) and the Industrial Tribunal shall adjudicate all the points raised by the petitioners and respondents and give its award in accordance with law". Further on 13-2-98 Hon'ble High Court ordered that the writ petition Nos. 47 to 59/98 may be transferred to the Industrial Tribunal. The writ petition filed here in shall be treated as reference made by workman. It is in this context that the present industrial dispute of I.D. Case No. 47/98 to 59/98 and 23/2001 and 24/2001 whose paper-books of original writ petitions have been received from the Hon'ble High Court and the rests which have been directly instituted before this Tribunal have been registered as references in this Tribunal.

3. In brief the claim of the petitioners in I.D. Case No. 47/98 to 59/98 and 23/2001, 24/2001, 126/2000 and 34/2001 are that they have been working in N.D.M.C. in various categories of workman in different pay scales of class III and class IV employees but they are not getting their pay scales and other benefits which are being given to other similarly placed employees of N.D.M.C. working in other wings, in view of Shiv Shanker Committee pay scale report and decision of R.D. Gupta's case of Hon'ble Supreme Court and that the actions of Management of N.D.M.C. (New Delhi Municipal Council) in not giving the same pay scales and benefits to the petitioners is discriminatory, arbitrary and also against the well established principle of equal pay for equal works, principles of natural justice and fair play. Hence they claim parity in their pay scale and other benefits with other similarity placed employees.

4. In I.D.No. 97/98 the petitioner-workman claim that they are working in water wing and discharging their duties in various capacity such as Beldar, Khalasi, Mason, Peon, Male Painter, Fitter, Inspector, Lab Attendant, Lab. Asst. cum Sample Takers, Bacteriologist and Chemist but they have been denied the benefit of S.S. Committee Pay Scale. Hence they claim the same benefits which have been extended to more than sixty other categories of employees of the Management of respondents.

5. In I.D.No. 123/98 the petitioners-claim that they are part and parcel of Electric Wing of N.D.M.C. They also discharge ministerial functions such as meter mechanic issue meters from the store for repairing to the repairers

and attend the complaint at site and maintain the records of complaints. They have prayed for giving them of S.S.C. pay scale in the light of judgement of R.D. Gupta Vs. Lt. Governor Delhi case of the Apex court and Shiv Shanker Committee report.

6. In I.D.No. 96/98 the petitioners claim that they are employees of N.D.M.C. working in hospital "Charak Palika", P.M. Hospital, Dispensaries, Health Centres. Vet. Hospital, Health Education Unit etc. of N.D.M.C. which is part and parcel of Health Staff. They discharge all civil functions including the supply of electricity, water, disposal of sewage and maintenance of health services, that the N.D.M.C. has accepted in principles to make the payment of pay scale in accordance with S.S.C. report to all its employees irrespective of any category in the N.D.M.C.; that the benefits of the S.S.C. report was extended to 8 categories of Sweepers, Assistant Sanitary Inspector, Chief Inspector, Dy. Sanitary Officer, Dak Suitors, Malaria Inspectors, Anti Malaria Officer, Drivers, Clerks, Store Keepers, Record Keepers which form part of health department. That some of the employees working in health department of N.D.M.C. are inter transferable with other department of N.D.M.C. and some categories of the staff working in the health department have been extended the benefit of S.S.C. pay scale but petitioners have been denied, that the duties of the applicants are to provide medical and health services round the clock to the other employees of N.D.M.C. belonging to electricity, water, the administrative staff; and that the juniors to the petitioners are getting higher pay scale than their seniors and thus there is a gross violation of the principles of equality and equal pay for equal work. Therefore, they have also prayed for giving them the benefits of S.S.C. pay scales.

7. The petitioners of I.D.No. 118/03 have alleged that they are working in the various capacity i.e. junior trades men, senior draftsmen and head draftsman in the electricity department of N.D.M.C. w.e.f. various dates but despite their various representations and also resolutions of the N.D.M.C. itself they have not been provided benefits of S. S.C. report although the officials working in the same categories of D.E.S.U. are getting the said benefits. Hence the petitioners have prayed for their parity in pay scales.

8. In I.D.No. 119/03 the petitioners alleged that they are working in public relation department of N.D.M.C. on various posts i.e. Senior Librarian, Assistant Librarian and Library Attendant; that the total strength of the department is of 59 employees out of which 26 employees are getting their salary on the basis of the S.S.C. pay scale and remaining 31 employees are not getting the said pay scale; that the petitioner are getting pay scale of Rs. 750-940 only whereas the others who are much lower to the petitioners are getting higher scales in view of the S.S.C. report. Hence they have also prayed for getting the pay scales as being paid to others.

9. The claim of the petitioner have been opposed by the N.D.M.C. by way of filing written statement. In the written statement it has been, inter alia, alleged that the claim of the workmen petitioners is highly belated because through resolutions dated 19.10.87, 9.2.88, 26.2.88 and also various other of N.D.M.C., the benefits of pay and allowances as per the S.S.C. report was extended to various employees of several categories but the petitioners took no step to make any such claim ever since then. Hence their claims are highly belated and liable to be rejected summarily on this ground alone; that the petitioners have not come to this court by way of raising an industrial dispute through appropriate government and that the intention of the Hon'ble High Court while deciding the writ petitions was not to bye-pass the procedure laid down by the I.D. Act, 1947; that the procedure as provided in the I.D. Act, 1947 has not been followed by the petitioners in raising the present dispute and no reference was made by the appropriate government in accordance with the procedure laid down in I.D. Act, 1947; Hence the petitions are liable to be dismissed; that the petitioners are not entitled for grant of pay scales as recommended by S.S.C. particularly in accordance with the judgement of the Hon'ble Supreme Court of India in Civil Appeal No.2669 of 1983 which was confined only to the ministerial staff of N.D.M.C. and the petitioners are not members of ministerial staff. That vide resolution No. 11 dated 26.2.88 N.D.M.C. had decided to consider grant of pay scale of the S.S.C. to other categories but that decision was not final because according to it clarifications were required from Labour Commissioner/Defini Administration and these clarifications were only to consider the demand of equal pay for equal work. That the carpenters are not transferable to any other department and it is incorrect to say that the carpenters were appointed for any common cadre; that all the petitioners are already getting Rs.100/- PM as non recoverable relief as is being given to the other employees; that the prayer of the petitioners/claimants cannot be allowed and it is liable to be dismissed with costs.

10. The petitioners have also filed their rejoinder reiterating their earlier versions made in their original petitions. It has been further alleged that the Secretary of N.D.M.C. issued a circular dated 26.6.91 to all Assistant Secretaries for implementing pay scales of left out categories given by S.S.C.; that the question of grant of S.S.C. pay scale to the workmen petitioners arose only because management/respondent authorities have granted the said pay scale out of their own whims and fancies to other similarly placed employees working under them. Hence workmen/petitioners are also, claiming similar treatment on the ground of equality and equal opportunity; that in the case of R.D. Gupta Vs. Lt. Governor and others the Hon'ble Supreme Court has also passed the judgement on the similar view. The Hon'ble Apex Court has also held in the R.D. Gupta's case that "the grant of S.S.C. pay scale

to only staff working in the electricity wing or grant of ex-gratia payment only staff working in the electricity and water wing cannot be legally sustained as it suffers from voice of discrimination. Hence the petitioners claim that they are also entitled to the benefit of S.S.C. pay scale. Regarding preliminary objections of the management it has been alleged that the claims of the petitioners are not belated at all; that the petitioners have been raising their claims from the very beginning and approached the management on so, many times for the same; that the Hon'ble High Court has itself ordered that the writ petitions filed before it shall be treated as reference made by the workman. Therefore, it cannot be argued that the present dispute is barred and or not maintainable in absence of reference in accordance with the provisions of I.D. Act; that the written statements filed by the management of N.D.M.C. is wrong and misconceived; hence the claimants/petitioners petitions deserve to be allowed.

11. In documentary evidence both the parties filed various documents and in oral evidence the workman Jamaluddin petitioner of I.D.No.48/98 has filed his own affidavit and he was also cross-examined; the management did not adduce any verbal evidence.

12. In I.D.No.47/98 Shri Om Dutt one of the petitioners filed affidavit and was cross-examined. In I.D.No.48/98 Shri Jamaluddin filed his affidavit and was also cross-examined. In I.D.No.49/98 Shri Ram Khilari appeared as WW1 and was cross-examined. In I.D.No.50/98 Shri Kananey Lal appeared as WW1 and was cross-examined. In I.D.No.51/98 Shri Arun Kumar appeared and cross-examined. In I.D.No.52/98 Shri R.L. Gautam appeared as WW1 and cross-examined. In I.D.No.53/98 Shri Mehtab Singh appeared as WW1 and was cross-examined. In I.D.No.54/98 Shri Chander Bhan appeared as WW1 and was cross-examined. In I.D.No.55/98 Shri Ram Lakhan appeared as WW1 and was cross-examined. In I.D.No.56/98 Shri Shyam Lal appeared as WW1 and was cross-examined. In I.D.No.57/98 Shri Gazey Singh appeared as WW1 and was cross-examined. In I.D.No.58/98 Smt. Kamla Devi appeared as WW1 and was cross-examined. In I.D.No.59/98 Mohd. Sabir appeared as WW1 and was cross-examined. In I.D.No.23/2001 no oral evidence. In I.D.No.24/2001 Sri Subhash Chandra one of the petitioners filed his affidavit. In I.D.No.126/2000, ID.No.34/2001 no verbal evidence was led by any party. In I.D.No.97/98 Shri Kanwar Singh appeared as WW1 and was cross-examined. In I.D.No.123/98 Shri Kanchan Singh appeared as WW1 and was cross-examined. In I.D.No.96/98 Shri G.L. Hora appeared as WW1 and was cross-examined. In I.D.No.118 and I.D.No.119/2003 no evidence was led by either party. No oral evidence was led by the N.D.M.C. in any of the cases.

13. In the petitions in which the management filed no written statement and parties adduced no separate

evidence, the A.R. of the management adopted same written statement and documents in evidence adduced in other petitions consolidated with this case. A/R of the workman has also adopted the same evidence of connected cases.

14. I have heard Ld, counsel A/R of both the sides and perused the files.

15. As regards the preliminary objection of the management on the ground of maintainability of the petitions in absence of any reference through the appropriate government I have already decided that objection through my order dated 18-3-2002 passed on a separate sheet which shall form part of the award. In view of the order of the Hon'ble High Court treating the writ petitions itself as reference made under the I.D. Act. I have rejected preliminary objections raised by the management and held that the claim petitions are maintainable. The other petitions which were filed directly before the tribunal were also admitted as they were based on similar facts and grounds and against the same management of N.D.M.C.

16. The next objection of the respondents is that the claims are highly belated. It has been alleged that the petitioners have raised their claims on the basis of the report of S.S. Committee and various resolutions of N.D.M.C. by which the benefits of pay and allowances were given to some of the staff members as per the S.S.C. report. The first resolution was passed on 19.10.87, the second and third resolutions were passed on 9.2.88 and 26.2.88 respectively through which benefits of S.S.C. report were extended to various all other categories of workers but the petitioners took no steps to make any such claim ever since then. On the other hand the petitioners/workmen have refuted this contention on the ground that they have been raising their demands ever since the benefits, of pay scales etc. were extended by the N.D.M.C. itself to other categories of similarly placed employees.

17. In this regard, the petitioners have alleged and also adduced various documentary evidence in support of their claim that they have been continuously raising their demands from the very beginning when the benefits were given to other similar employees; that they also filed various writ petitions before the Hon'ble High Court and the Hon'ble Supreme Court; they also went on strike resisting their claims in view of Shiv Shanker Committee's report and R.D. Gupta's case. They also held meetings through their union with the authorised members of the committee of the N.D.M.C. These facts have not been denied by the Management. Therefore, at this stage it cannot be accepted that the petitioners did not raise their claims at the earliest or at any other point of time. Besides, in the case of M.R. Gupta Vs. Union of India and others reported in AIR 1996 (Supreme Court) page 669 the Hon'ble Supreme Court held that "Non-fixation of pay scale is a continuing wrong. Hence question of limitation does not arise in a case of fixation of pay scale". The Hon'ble Court

held that "the claim to be paid the correct salary computed on the basis of proper pay fixation is a right which subsists during the entire tenure of service and can be exercised at the time of each payment of the salary". Therefore, I find no force even in the second objection of the respondents and hold that the claims can not be said to be highly belated.

18. Now coming to the merits of the case, the main question to be decided in the dispute is as to whether the action of the management of N.D.M.C./respondents in not granting the pay scales and other benefits in view of S.S.C. report pay scales as claimed by the petitioners and as being given to other categories of similarly placed employees of N.D.M.C. is just and proper? If not to what relief, if any are the petitioners entitled? In this regard it is worth to be mentioned that the respondents have not specifically denied that the committee of the management of N.D.M.C., its secretary and Administrator agreed through its resolution No.1 dated 26.2.88 and also various other resolution and settlement with the workers union to give the pay scale and other benefits of S.S.C. pay scales to all its employees as alleged by the petitioners. Rather it has been admitted that vide resolution No.1 dated 26.2.88 committee of the N.D.M.C. conceded to grant S.S.C. pay scales to all its employees. It is also to be noted that the N.D.M.C. adduced no evidence at all to show as to why the petitioners are not being given so far the relief claimed. On the other hand the workmen petitioners have filed photostat copy of report of committee and sub-committee of N.D.M.C. & various resolutions of committee of N.D.M.C., orders and recommendations of Secretary and Administrator of the N.D.M.C., copy of Settlement arrived at between the members Union and officials of the Union of the workmen and officers of management of N.D.M.C. including various orders and judgements of the courts in support of their claims and genuineness of most of them has been admitted by the A.R. of the respondents. In rebuttal there of no document or evidence at all has been adduced by the management.

19. It has been alleged that Shiv Shanker Committee (in short S.S.C.) was constituted by the Govt. to go into the question of revisions of pay scales of the Technical Staff of Delhi Electric Supply undertaking and it submitted its report in 1973. Consequentially by resolution No. 154 N.D.M.C. granted the benefits of pay and allowances as per S.S.C. report to the staff of the electricity Wing only. Subsequently N.D.M.C. granted S.S.C. pay scale to some other member of its staff in the electricity wing and there by the N.D.M.C. created a class within a class which gave rise to widespread discontentment among other categories of staff working in the N.D.M.C.. There upon legal proceedings were initiated and ultimately the matter came before the Hon'ble Supreme Court. The Hon'ble Supreme Court delivered its judgement on 7-8-1987 in C.A. No.2969 of 1983 (R.D. Gupta's case) where in it was held that paying S.S.C. pay scales to only the staff working in the electricity



wing was discriminatory. The court held that there should be uniformity of pay scales and that all the ministerial staff working in the N.D.M.C. are entitled to get pay scales as per S.S.C. pay scales report and like wise all of them are entitled to get ex-gratia payment and payment should also be made from a date common to all. On receipt of the said judgement the committee of the management sought sanction of the Delhi Administration vide letter dated 8-9-87. In the said letter it was also requested that a clarification be given as to whether relief granted by the Hon'ble Supreme Court is to be limited to the ministerial staff only or it should be extended to the holders of other common transferable posts borne on unified cadre. The case was laid down before the committee of officers headed by the Administrator for consideration and decision. There upon it was resolved by the committee of officers on 9.2.88 and decided by the Administrator that the benefits of Supreme Court judgement dated 7-8-87 be extended to the ministerial staff comprising of office superintendent/H.A./Accountant, Personal Assistant, Sr. Clerks, Stenos, Jr. Clerk, Assistant Store Keepers, Adreamea-operators and action for fixation of pay etc. be taken up in anticipations of confirmation of minutes. Secondly the case regarding other categories be examined after a clarification is received from Delhi Administration and the directions of the Hon'ble Supreme Court in the petition filed by the Karayalya Chaturth Shreni Karamchhari Association.

20. Thereafter the action Committee of N.D.M.C. workers federation constituted by various categories of Municipal employees came up with the demand that S.S.C. pay scales should be extended to them since they form an integral part of the employees of N.D.M.C. The action committee in order to press their demand also decided to take the path of non-cooperation and struck down work since 25.2.88. In order to resolve the dispute amicably the representatives of the municipal employees and the members of the action committee hold deliberations with Administrator... They also gave their demand in writing. An Extraordinary meeting of Committee of officer was held on 26-2-88 wherein in order to maintain harmonious and cordial relations with the labour and appreciating the genuineness of the demand, the committee decided to adopt this as a resolution in the extra ordinary meeting held on 26.2.88. In its resolution No. 1 it was resolved that :—

“With reference to your demand it is clarified that N.D.M.C. wants to make payment in accordance with S.S.C. Committee's report to all its employees irrespective of its any category. It was further resolved that after taking clarification from Labour Commissioner/Delhi Administration, the Hon'ble Supreme Court judgement i.e. equal pay for equal work will be considered favourably. The work of pay fixation of all categories in accordance with S.S.C. report would start hence forth”.

21. It is also to be noted that the benefits of Hon'ble Supreme Court judgement dated 7-8-87 in the case of R.D. Gupta and others was already extended through resolution No.26 dated 9-2-88 and resolution No.52 dated 9-6-88 of the committee of management to 18 categories of the staff falling under 496 posts including drivers.

22. Under the orders of the Administrator dated 18.7.88 various categories of sweepers were also extended benefits of S.S.C. scales in terms of resolution No.26 dated 9.2.88 read with resolution No.52 dated 9.6.88.

23. The petitioners have also filed copy of a settlement dated 29.12.90 and a copy of report dated 19.4.91 of the committee of N.D.M.C., genuineness of both these documents has not been denied. In para 1 of the terms of settlement dated 29.12.90 it has been alleged “that all categories of employees upto group ‘B’ be allowed an unrecoverable relief of Rs.100/- w.e.f. 1st March. 1990.” In para 2 of the terms of settlement it was agreed that Administrator N.D.M.C. will constitute a sub-committee under the chairmanship of Secretary N.D.M.C. consisting officers of N.D.M.C. as mentioned in the terms of settlement to consider the issue and give its report within 3 months. Then the N.D.M.C. shall take final decision after due consultations. Accordingly a sub-committee was constituted which gave its report on 19.4.91 (copy of report filed by the petitioners is on the record). The settlement dated 29.12.90 was signed by two members of N.D.M.C. administration and three members of N.D.M.C. workers Federation witnessed by two persons. The next document which is report dated 19.4.91 of the sub-committee constituted in view of the settlement, which shows that the committee carefully thought over the issue including the contention of the federation and arrived at the following conclusion:—

- (1) The N.D.M.C. vide resolution No. 1 dated 26.2.88 had already agreed to extend inter alia the S.S.C. scales to all its employees.
- (2) That the present operation of the resolution No.1 is working to the advantage of some while other categories are not getting these benefits such unequal operation is without reasonable cause or basis. Such discrimination was legally unjustified. As such, the benefits may be extended to all the categories of employees working in N.D.M.C. except those covered by different pay packages announced by Delhi Administration or Government of India. Alternatively none should get beyond what was prescribed by the Hon'ble Supreme Court of India and S.S.C. scales.”

24. It is strange enough that despite the above facts, settlement and various resolutions and decision of the committee of the N.D.M.C. itself in favour of the workmen/petitioners the pay scales as claimed by the petitioners in

view of the S.S.C. pay scales and R.D. Gupta's case judgements of the Hon'ble Supreme Court have not been given to the petitioners so far. There seems to be no justification in not extending the same and equal pay scales and other benefits to the petitioners as are already being given to other categories of similarly placed employees of the N.D.M.C.. It only goes to show arbitrariness and discriminatory attitude of the management of N.D.M.C. and nothing else. It is also against the intention of the constitution, principles of equity and justice and equal pay for equal works. Therefor, it cannot be justified.

25. In view of the above discussions I conclude that the petitioners have successfully established their justified claims against the management of N.D.M.C.. I also find that the action of the management of the respondent/ N.D.M.C. in not extending the pay scales and other benefits of S.S.C. report to the petitioners which is already been given by the management to its other similarly placed employees is neither justified nor proper and legal. The respondents have failed to justifying their attitude towards the petitions in not giving than the benefits claimed for.

26. Hence, all the petitions/claims of the petitioners deserve to be allowed with costs. The petitioners are entitled to get the pay scales and other benefits as being given to other categories of similarly placed employees of the N.D.M.C. at least w.e.f. 1-7-91 i.e. subsequent to 19-4-91 i.e. the date of final conclusion arrived at by the committee of the management of N.D.M.C. on the basis of settlement dated 29-12-90 between the administration of N.D.M.C. and worker's federation of N.D.M.C. if not earlier. It is further found that the pay scale of each petitioners should be concluded and refixed by N.D.M.C. within 3 months from the date of the publication of the award in the Government Gazette.

The award is given accordingly.

27. Let a copy of this award be placed on the file of each connected I.D. cases, original being placed on the file of the leading I.D. Case No. 47/98.

Dated 6-11-2003

BADRI NIWAS PANDEY, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2003

का. आ. 3336.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 136/91) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-11-2003 को प्राप्त हुआ था।

[सं० एल-12012/122/91-आई.आर.(बी-II)]

सी. गंगाधरण, अवसर सचिव

New Delhi, the 11th November, 2003

S.O. 3336.—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 136/91) of the Central Government Industrial Tribunal/ Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 10-11-2003.

[No. L-12012/122/91-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD**

**PRESENT:**

SHRI B. BISWAS, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 136 of 1991

**PARTIES:** Employers in relation to the management of Central Bank of India and their workman.

**APPEARANCES:**

On behalf of the workman : Shri D. Ram,  
Authorised  
Representative

On behalf of the employers : Shri Sanjay Kumar,  
Law Officer

State : Jharkhand Industry : Banking.

Dated, Dhanbad the 16th October, 2003.

**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-12012/122/91-IR (B-2) dated, the 18th September, 1991.

**SCHEDULE**

"Whether the action of the management of Central Bank of India in dismissing Shri Ram Bhagwan Singh, Armed Guard from the services of the Bank is justified? If not, to what relief is the workmen concerned entitled?"

2. The case of the concerned workmen according to the Written statement submitted by the sponsoring Union on his behalf in brief is as follows :—

It has been submitted by the sponsoring Union that the concerned workman being an Ex-service man was



appointed in Bank's service as Armed Guard and posted at Bhagwan Bazar, Chapra under the management. They submitted that as per the promotional policy, workman as sub-staff i.e. IV is entitled to get straightway promotion in the clerical Cadre and grade if he passed Madhyama standard of examination from any recognised Board of examination, in first division. Being interested, the concerned workman with a view to get his promotion in clerical cadre appeared in the Madhyama Examination in the year 1986 conducted by Bihar Sanskrit Siksha Board, Patna as a private candidate through Shri Dhaneshwar Singh Sanskrit High School, Samhota, Sharan and passed the said Madhyama Examination in first division. They submitted that having received the said certificate duly issued by the Board the concerned workman applied to the Bank furnishing a copy of the certificate for his straightway promotion to the post of Clerk cadre according to the said promotional policy. They submitted that while the concerned workman awaiting for the order of his promotion to the post of Clerk, with utter surprise he received a Memo dated 23-2-88 issued to him by the Regional Manager Siwan asking for his explanation as to why disciplinary action would not be taken against him for his false declaration of passing the said Madhyama Examination in first division while he passed the said examination in 3rd division. Receiving the said memo the concerned workman wrote a letter to the Head Master of Dhaneshwar Singh Sanskrit High School, Samhota, Sharan asking him to ascertain as to whether the certificate which has been furnished to him by the said School was genuine or not. In reply to his said letter the Head Master by Regd. letter confirmed that the certificate of the said Board which was given to him was genuine. Accordingly with all confidence he submitted his reply to the said Memo that he had passed Madhyama Examination of the said Board in first division and further informed that on receiving the Memo he got confirmation from the Head Master of the said School of his passing the examination in first division. They alleged that the Regional Manager, Siwan not being satisfied with his reply chargesheeted the concerned workman for submitting false certificate to get his promotion in the cadre of clerk and also ordered for holding departmental enquiry against him. They alleged that in course of that departmental enquiry the certificate which the concerned workman though was proved genuine the Enquiry Officer with mala fide intention submitted his report to the Disciplinary authority and holding him guilty to the charge brought against him. The disciplinary authority and the Appellate authority illegally and arbitrarily confirming the report submitted by the Enquiry Officer, dismissed the concerned workman from his service violating the principles of natural justice. Accordingly they raised an industrial dispute which ultimately resulted reference for adjudication to this Tribunal. The concerned workman accordingly submitted his prayer for passing award with a direction to the management to reinstate him in service with back wages

and other consequential benefits setting aside the order of dismissal passed against him by the Disciplinary Authority.

3. Management on the contrary after filing W.S.-cum-rejoinder have denied all the claims and all contention which the sponsoring Union asserted in the W.S. on behalf of the concerned workman. It has been submitted by the management that while the concerned workman was posted as Armed Guard at Bhagwanpur Branch submitted representation enclosing there with photo copy of mark sheets and school leaving certificate with request to issue necessary order for effecting straightway promotion in his favour in clerical cadre in terms of Bank's promotional Policy. The said Photo copy marksheet submitted by the workman to the Bank transpired that he passed Madhyama Examination from Bihar Sanskrit Siksha Board, Patna in the year 1986 in first division. Accordingly his representation was forwarded to the Regional Officer Siwan by the Branch Manager of Bhagwanpur Branch. The said Regional Office then forwarded his representation to the Zonal Office Patna. The Zonal Office Patna while considering the representation requisitioned the original mark sheet from the workman which was made available to the Zonal Office Patna by the workman. After receipt of the said mark sheet, Zonal Office Patna sent the same to the Secretary Bihar Sanskrit Siksha Board to ascertain the genuineness/correctness of marksheet submitted by the workman. The Board accordingly informed the Zonal Office that the mark sheet submitted by the workman was wrong/incorrect and it did not tally with the actual marks obtained by him. On receipt of the said reply the Bank again wrote to the Secretary of the Board to inform the actual marks obtained by the workman. In reply to that letter the Board informed that the said workman had passed Madhyama Examination in third division carrying 297 marks and also sent duplicate copy of the marksheet to the management. After ascertaining the correct marks and division obtained by the concerned workman from the Board the Regional Manager Siwan issued a Memo dt. 23-2-88 to the workman asking him to explain the reasons for his submitting bogus marksheet. The concerned workman submitted his reply to the memo in question but as the reply given by the concerned workman was not satisfactory he was issued with a chargesheet with the allegation of committing misconduct for giving wrong information and submitting bogus marksheet etc. to the Bank with intention to gain undue advantage from the Bank. Accordingly a departmental enquiry was initiated against the concerned and Enquiry Officer was appointed to that effect. In course of the said enquiry proceeding the concerned workman fully participated in the same and represented his case through his representative. The management submitted that the concerned workman also in support of his claim examined witness. The Enquiry Officer after completing the said enquiry proceeding submitted his report to the disciplinary

authority holding the concerned workman guilty to the charges. After obtaining that report the disciplinary authority as well as the Appellate authority gave an opportunity to the concerned workman for making his submission in support of his plea of innocence. The concerned workman appeared before the said authority made his submission. But as the submission made by him was not satisfactory he was dismissed from his service. Management accordingly submitted prayer in view of the facts and circumstances stated above that the concerned workman is not entitled to get any relief. Accordingly they submitted prayer to pass award rejecting the claim of the concerned workman.

4. The points to be decided in this reference are :—

“Whether the action of the management of Central Bank of India in dismissing Shri Ram Bhagwan Singh, Armed Guard from the services of the Bank is justified? If not, to what relief is the workmen concerned entitled?”

#### FINDING WITH REASONS

5. It appears from the record that before hearing argument on merit it was considered if the domestic enquiry conducted against the concerned workman was fair, proper and in accordance with the principles of natural justice. In course of the said preliminary hearing management examined two witnesses as MW-1 and MW-2 while the concerned workman examined himself as witness in support of his claim. During evidence of MW-1 and MW-2 documents were marked as Exts. M-1 to M-17. It transpires further that in course of preliminary hearing both the management and the representative of the workman extended their argument at length. After hearing both sides vide order No. 52 dt. 10-7-2002 this Tribunal came to the conclusion that the domestic enquiry conducted against the concerned workman was fair, proper and in accordance with the principles of natural justice. Accordingly at this stage I do not find any reason to enter into any further discussion, on this point afresh.

6. Here the point which is to be considered is whether the management has been able to substantiate the charge brought against the concerned workman and if so whether the concerned workman is entitled to get any relief under Section 11-B of the Industrial Dispute Act.

7. Considering the facts disclosed in the pleadings of both sides and also considering materials on record I find no dispute to hold that the concerned workman was appointed as Armed Guard at Bhagwan Bazar Branch. I also find no dispute to hold that the management maintains the promotional policy for the sub-staff to the clerical cadre straightway who passed Madhyama Examination in First Division. Being attracted by the said promotional policy, concerned workman appeared at Madhyama Examination as private candidate conducted by Bihar Sanskrit Siksha Board, Patna through Shri Dhaneshwar Singh Sanskrit

High School Samhota Saran in the year 1986. It is the contention of the concerned workman that he passed the said examination in the first division and obtained certificate from the said school issued by the Head Master. He further submitted that on receipt of the certificate he made representation to the management with enclosed copy of the certificate with a prayer for getting his promotion in clerical cadre as per the said promotional policy. The said fact was also admitted by the management. Management submitted that on receipt of the representation submitted by the concerned workman the Branch Manager forwarded the same to the Regional Office Siwan and the Regional Office forwarded it to the Zonal Office Patna. Then Zonal Office Patna considering the representation of the concerned workman requisitioned the original mark sheet from the concerned workman which was made available to the Zonal Office Patna by the workman. The workman also did not raise any dispute about submission of original mark sheet relating to his Madhyama Examination which was issued to him by the Head Master to the management. It is the specific contention of the management that on receipt of the original mark sheet the Zonal Office Patna sent the same to the Secretary Bihar Sanskrit Siksha Board to ascertain its genuineness. The Board accordingly informed the Zonal Office that the mark sheet submitted by the workman was incorrect as it did not tally with the actual marks obtained by him. Then again management wrote letter to the Secretary of the Board to inform the actual marks obtained by the workman. In response to that letter the Board informed that the said workman had passed Madhyama Examination in third division having obtained total number of marks 297 and also sent the duplicate copy of the mark sheet to the management. On ascertaining the correct marks obtained by the workman the Regional Manager, Siwan issued a Memo dt. 23-2-88 to the workman asking him to explain the reasons for his submitting Bogus mark sheet. They submitted that the concerned workman replied to the Memo issued to him.

8. Here the contention of the concerned workman is that the moment he received the Memo from the management he wrote a letter to the Head Master of his school seeking information if the mark sheet which he submitted to the management was issued by the school authority or not? In reply to his letter the Head Master of the School authority informed him that genuine mark sheet which they received from the Board was issued to him. On receipt of the said reply the concerned workman was confirmed that the mark sheet which he deposited to the management for consideration of his promotion in clerical cadre was genuine and accordingly he submitted his reply. The Memo which was issued to the concerned workman during evidence was marked as Ext. M-5 while reply given by the concerned workman to the Memo was marked as Ext. M-6. The representation which the concerned workman submitted to the management for his straightway

promotion in clerical cadre was marked as Ext. M-1 while original mark sheet which the concerned workman deposited to the management was marked as Ext. M-2. From the mark sheet it transpires that in Madhyama Examination the concerned workman secured 557 marks and was placed in the first division. It is seen from the record further that to ascertain the genuineness of the mark sheet management issued a letter to the Secretary, Bihar Sanskrit Siksha Board Patna along with mark sheet of Maheshwar Pd. Singh, and the concerned workman. The said document during evidence was marked as Ext. M-3. It is the contention of the management that the Secretary, Bihar Sanskrit Siksha Board by their letter marked as Ext. M-11 intimated them that the Roll No. appearing in mark sheet marked as Ext. M-2 which the concerned workman deposited for consideration of his promotion in clerical cadre was wrong. Accordingly being dissatisfied with the reply given by the concerned workman the management issued chargesheet against him with the allegation of committing misconduct under clauses 19(5) and 19(5) (J) of the Bipartite settlement. In the said chargesheet they have brought the specific allegation that the concerned workman cheated the Bank with mala fide intention to secure straightway promotion from the subordinate cadre to the clerical cadre in terms of clause 19(2) of the Bank's Promotion Policy for award staff by fraudulent means. The chargesheet during evidence was marked as Ext. M-7. Now let us consider if the management has been able to establish the charge brought against the concerned workman. In course of domestic enquiry management examined three witnesses. The concerned workman also examined three defence witnesses. Out of the three management's witnesses MW-2 represented the Bihar Sanskrit Siksha Board Patna while out of three defence witnesses DW-1 represented the Head Master of Shri Dhaneshwar Singh Sanskrit High School Samhota Saran. It is seen that MW-2 was examined and cross-examined in details by both sides. This witness during his evidence categorically raised his dispute over genuinity of the mark sheet marked as Ext. M-2 which the concerned workman relied on. It has been categorically submitted by this witness that each marksheet contains code No. and Roll No. of the candidate. The marksheet which the concerned workman relied on (Ext. M-2) only bears the roll No. of the candidate but does not bear the code No. He submitted relying on the duplicate mark sheet Ext. M-4 that the code No. and Roll No. of the candidate i.e. Ram Bhagwan Singh was 20/142. He disclosed that recording of Code No. is a must. He further submitted that the duplicate mark sheet Ext. M-4 was actually issued by the Board which has exposed the marks obtained by the candidate and the division. According to this mark sheet the concerned workman obtained 297 marks in the Madhyama Examination and was placed in the third division. MW-2 categorically denied the fact relating the issuance of mark sheet Ext. M-2 from Bihar Sanskrit Siksha Board Patna though he did not deny

the signature of the Secretary appearing in the mark sheet fascimile. The duplicate mark sheet also bears the seal of the Secretary of Bihar Sanskrit Siksha Board marked as Ext. M-4 and he identified the same. DW-1 on the contrary who is the Assistant Teacher of Shri Dhaneshwar Singh Sanskrit School during his evidence disclosed that the mark sheet Ext. M-2 was actually received by the Board after publication of the Madhyama Examination result and the same was issued to the candidate i.e. the concerned workman. This witness relying on this marksheet disclosed that the concerned workman secured 557 marks in the Madhyama Examination and was placed in the first division. It is the contention of the concerned workman that he did not receive the marksheet directly from the Board. He submitted that he received the marksheet from the School authority and for which it was not possible on his part to say if the marksheet which was handed over to him by the School authority was genuine or not. He submitted that the mark sheet which he received Ext. M-2 from the school authority submitted the same to the management for consideration of his promotion in clerical cadre. Both MW-2 and DW-1 during their evidence admitted that after publication of the result of the Board no mark sheet in original is given to the candidate directly. After publication of the result the marksheets are sent to the schools and from the School the same are distributed to the candidates appearing in the said examination. Therefore considering the evidence of MW-2 and DW-2 there is reason to hold that the concerned workman did not obtain the mark sheet Ext. M-2 from the Board. On the contrary from the evidence of MW-2 it is clear that the marksheet marked as Ext. M-2 was not at all issued to School Authority by the Board. It is the contention that the original of marksheet Ext. M-4 was actually sent to the School authority after publication of the result in question. Considering the two marksheet it is clear palpably while the mark sheet marked as Ext. M-2 bears only Roll No. of the candidate the other mark sheet marked as Ext. M-4 bears the code No. and Roll No. It is the specific contention of MW-2 that each mark sheet should contain Code No. as well as Roll No. Accordingly considering the evidence of MW-2 there is sufficient reason to raise question about the genuinity of the mark sheet Ext. M-2 which the concerned workman submitted to the management for consideration of his promotion. This mark sheet was not at all issued by the Board. It is not expected that after publication of the result the Board will issue two different types of mark sheets to the School Authorities. It is also not expected that the Board suppressing the original mark sheet wherein it has been exposed that the candidate obtained 297 marks in the Madhyama Examination and was placed in the third division concealing issued a fabricated mark sheet wherein candidate obtained 597 marks and was placed in the first division. According to the promotional policy of the management a sub-staff is entitled to get straightway promotion in clerical cadre if he passed

Madhyama Examination in first division. It is seen that the concerned workman being encouraged by the promotional policy appeared in the Madhyama Examination under Board as a private candidate through Dhaneshwar Singh Sanskrit High School, Samhota Saran with the expectation to get himself passed in the first division. It is seen that the concerned workman getting desired result in the examination submitted the certificate to the management for consideration of his promotion. It is the contention of the concerned workman that he was not at all aware if the marksheet which he relied on was genuine or fabricated because of the fact that he received the same from the School Authority. DW-1 no doubt has admitted this fact. When from the evidence of MW-2 it is clear that the Board did not issue fabricated marksheet Ext. M-2 there is no question at all about receipt of the same by the school authority. Therefore, question which has been cropped up here is how the School Authority got this mark sheet. It is not expected that the School Authority will not issue genuine mark sheet to the candidate after its receipt from the Board. Here I find quite a different picture. It is seen that the mark sheet which the School Authority issued to the concerned workman was a fabricated one which at all was not issued by the Board. The concerned workman required mark sheet showing that he passed Madhyama Examination in the first division. His ambition no doubt was fulfilled but considering the evidence of MW-2 I find sufficient reason to believe that he has procured the mark sheet in connivance with the interested person of the School Authority suppressing the original mark sheet which was sent to that school by the Board after publication of the Madhyama Examination. It is fact that the management has failed to establish the charge directly against the concerned workman but if the circumstances is considered along with the circumstantial evidence there is sufficient reason to believe that the concerned workman was very much involved in procuring fabricated mark sheet from is school suppressing the genuine mark sheet issued by the Board. He made that with connivance with the intention to get his promotion in clerical cadre from sub-staff as per promotional policy of the management. Learned Advocate for the management submitted that not only this workman but also another workman was involved equally in procuring fabricated marksheet from the School with a view to get his promotion in clerical cadre suppressing the original marked sheet issued by the Board. That workman i.e. Mahendra Pd. Singh was also issued with chargesheet and thereafter as he said workman was dismissed from his service an industrial dispute was raised and on the basis of the industrial dispute a reference was made by the Ministry to CGIT No. 1, Dhanbad for adjudication which was registered as Ref. No. 86/91; Learned Advocate for the management in course of hearing submitted that learned Tribunal passed award in that case in favour of the management I have considered the award passed by the learned Presiding Officer in connection with Ref. No. 86/91

which affirms the contention of the learned Advocate for the management. Considering all aspects carefully I find sufficient reason to believe that the concerned workman was involved very much personally in procuring the fabricated marksheet only with a view to get his promotion in Clerical Cadre. This act on the part of the concerned workman amounts to an act of cheating and I consider that the management was justified in issuing chargesheet to the concerned workman. I have carefully considered all the materials evidence on record and I am satisfied that the management have been able to substantiate the charge brought against the concerned workman. It is seen that the management gave opportunity to the concerned workman to place his submission before the disciplinary authority as well as appellate authority to disprove the finding of the Enquiry Officer. It has been submitted that inspite of giving sufficient opportunity the concerned workman has failed to satisfy the disciplinary authority as well as appellate authority about his innocence to the charge brought against him. Accordingly the concerned workman was dismissed from his service.

9. Now the point for consideration is whether the concerned workman is entitled to get any relief under section-11A of the I.D. Act Section 11A of the I.D Act speaks as follows :--

“Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified; it may by its award set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu discharge or dismissal as the circumstances of the case may require.”

As per the provision of Section 11A the Tribunal if satisfied that the order of discharge or dismissal was not justified may by its award set aside the order of discharge or dismissal and direct reinstatement of the concerned workman on such terms and condition as it thinks fit or give such other relief to the workman including the Award or any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require. Main criteria which is to be fulfilled here is the order of dismissal passed by the management to be proved unjustified. In course of hearing the representative of the concerned workman has failed to establish this fact reasonably. On the contrary management relying on the decision report in 2003 (1) Bank CLR 622 (SC) page 622 submitted that there is not scope to invoke the provision of Section 11A of the instant

case. Learned Advocate for the management submitted that the concerned workman by submitting false certificate wanted to secure more responsible position in the Bank. The workman thus indulged into an act which could be defined as gross misconduct. The entire institution of Banking depends upon the confidence of its constitution upon the integrity of his employees because even an assistant in the Bank has to deal with huge amount which the Bank entrusts. Disclosing the fact learned Advocate for the management submitted that if any lenient view is taken in the instant case the customer may lose faith of the integrity of the Bank's transaction. I have carefully considered the judgement of the Hon'ble Apex Court. In the said decision. Their Lordships held that every officer/employee is required to take all possible steps to protect the interests of the Bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a Bank officer. Good conduct and discipline are inseparable from the functioning of every officer/employee of the Bank. Learned Advocate by referring the said decision submitted that the concerned workman cannot be considered as trust worthy employee of the Bank and he may cause further damage to the Bank's integrity if he is not punished properly. Considering the decision of the Hon'ble Apex Court referred to above and also considering the submission of the management I find sufficient reason that the mischief which the concerned workman committed has to be considered as serious dereliction of duty which was not at all expected and for which he could not be considered as trust worthy staff of the management. After careful consideration all facts and circumstances I hold that the order of dismissal passed by the management cannot be considered as unjustified and for which I do not find any reason to hold any lenient view inflicted upon the concerned workman invoking the provision Section 11A of the I.D. Act.

Accordingly following award is rendered :—

"Whether the action of the management of Central Bank of India in dismissing Shri Ram Bhagwan Singh, Armed Guard from the services of the Bank is justified. Consequently, the concerned workman is not entitled to get any relief."

B. BISWAS, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2003

का. आ. 3337.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं०-2, मुम्बई के पंचाट भाग-2 (संदर्भ संख्या 2/54/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-11-2003 को प्राप्त हुआ था।

[सं० एल-12011/10/2001-आई.आर.(बी-II)]

सी० गंगाधरण, अवर सचिव

New Delhi, the 11th November, 2003

S.O. 3337.—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Part-II) Ref. 2/54/2001 of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 2 as shown in the Annexure in the Industrial Dispute between the management of Syndicate Bank and their workman, which was received by the Central Government on 10-11-2003.

[No. L-12011/10/2001-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) MUMBAI

PRESENT:

S. N. SAUNDANKAR : Presiding Officer.

Reference No. CGIT-2/54 of 2001

EMPLOYERS IN RELATION TO THE MANAGEMENT OF SYNDICATE BANK

The Deputy General Manager,  
SB Zonal Office, Maker Tower 'E'  
2nd Floor, Plot No. 85, Cuffe Parade,  
Mumbai-400 005.

V/s

Their Workmen

The Secretary,  
Syndicate Bank Employees Union  
Ground Floor, 10, Homji Street,  
Mumbai-400 023.

APPEARANCES:

For the Employer : Mr. R. N. Shah, Advocate

For the Workmen : Mr. Jaiprakash Sawant,  
Advocate.

Mumbai, dated 18th September, 2003.

AWARD

Part-II

By the Interim Award dated 22.11.2002 this Tribunal held that the domestic inquiry conducted against the workman Sakpal was not as per the principles of natural justice and the findings of the Inquiry Officer are not pervers, Consequently, point as to whether the punishment of dismissal imposed upon the workman is just and proper in the context of the action of the management remains for the consideration of this Tribunal.

2. The punishment as above was imposed on the workman for the proved charge of misusing the facility under Housing Loan Scheme i.e. selling the house without the permission of the Bank for which the loan was sought from the Bank, amounting to misconduct under the Bipartite Settlement. According to the workman he sold the house



for which loan was sought, to meet the expenses, of medical treatment of his ailing wife and educational expenses of his children and that he had not caused any loss to the Bank. It is contended that Bank had recovered the amount of loan by charging heavy rate of interest and in that context, the punishment of dismissal imposed on the workman is disproportionate and harsh and also discriminative. On the other hand, Bank pointed out that workman gained pecuniary advantage prejudicial to the interests of the Bank. It is contended that misuse of Housing Loan Scheme attract severe liability and in this connection, the penalty imposed is apt and adequate.

3. In so far as issues No. 3 & 4 which are to be adjudicated by this Tribunal, workman filed affidavit in lieu of Examination in Chief (Exhibit-22) and closed oral evidence vide purshis (Exhibit 24). Management Bank however did not lead oral evidence vide purshis (Exhibit-25).

4. Workman filed written submissions Exhibit-26 along with copies of rulings and the management Bank Exhibit-27. On perusing the record, the written submissions and hearing the counsels, I record my findings on the issues for the reasons stated below:

#### ISSUES

#### FINDINGS

- |   |                     |
|---|---------------------|
| 3. Whether the action of the management of Syndicate Bank, Mumbai by dismissing Shri H. K. Sakpal from the services of the Bank is just and proper? | No.                 |
| 4. What relief the workman is entitled to?  | As per order below. |

#### REASONS

5. So far power under Section 11-A of Industrial Disputes Act is concerned. Their Lordships of Supreme Court in Mithilesh Singh V/s. Union of India & Ors. 2003 SCC L&S 271 clearly observed:

"the scope of interference with punishment awarded by Disciplinary Authority under Section 11-A of the Industrial Disputes Act is very limited and unless the punishment appears to be shockingly disproportionate, the court cannot interfere with the same".

6. As stated above, according to the workman punishment of dismissal imposed on him is disproportionate and discriminatory. The proved charge is of misusing the loan facility by selling the house for which loan was sought without the permission of the Bank. The Learned Counsel for the workman Shri Sawant submits that the workman had not gained any pecuniary advantage nor he had caused any loss to the Bank as the Bank had recovered the amount of loan with heavy rate of interest which was sufficient to teach lesson to workman and in this context, the punishment of dismissal is shockingly disproportionate hence needs to be interfered. In contra, Mr. Shah for the Bank submits that in a banking business absolute devotion, diligence, integrity and honesty needs to be preserved by every Bank employee. He submits that by selling the house for which

loan was sought from the Bank without permission, workman had misused the housing loan facility and thereby cheated the Bank. He urged that if leniency is shown to the workman a wrong message would go to employees in the banking industry that they can misuse the housing loan facility and use the sales proceeds for personal gain. He therefore submits to preserve the discipline in the Bank, the punishment imposed is the only proportionate and apt.

7. It is well settled that penalty imposed must be commensurate with the gravity of the offence charged and that discretion conferred by Section 11-A of the Industrial Disputes Act on the Tribunal is to be exercised considering the facts of the case as a whole. According to the workman he sold the house for which loan was sought to meet out the expense of medical treatment of his wife and educational expenses of his children. It is seen Bank recovered the loan amount with interest, thereby no peculiar loss caused to the Bank. If at all loss caused to the Bank could be recovered from the concerned employee. It seems workman without permission sold the house for which loan was sought is a procedural irregularity, which cannot be termed as gross misconduct to warrant extreme punishment of dismissal from service. Workman was appointed as Attender in 1980 and that at the relevant time he was working as Clerk who put about 15 years. Nothing on record to show that past record of the workman was blemished. Considering all these aspects the punishment imposed in the light of the proved charge, can safely said to be rather harsh and disproportionate.

8. So far discrimination is concerned, the Learned Counsel Mr. Sawant submits that Supreme Court has held in several cases that there should be no discrimination in the matter of punishment. *Sujan Singh V/s. State of Punjab* 1983(4)CC 225. The committee member of the Union Mr. Thakur said much on the discrimination that one Hemant Dhotre, Attender was charge-sheeted for commission of gross misconduct however he was not dismissed and that his basic pay was reduced by two stages for three years. Mr. Thakur admitted in cross-examination para 11 that facts of workman and said Dhotre are different, means Dhotre had not sold his house therefore hardly can be said that workman was discriminated. Since the punishment imposed is disproportionate to the proved charge needs to be interfered and that the punishment of withholding of two increments in future is apt and proportionate and the same needs to be imposed instead punishment of dismissal, consequently issues are answered to that effect and hence the order:

#### ORDER

The action of the management of Syndicate Bank, Mumbai by dismissing Shri U.K. Sakpal from the services of the Bank is disproportionate and therefore unjust and improper and that the punishment of withholding of two increments in future is adequate and the same is imposed upon him instead of punishment of dismissal. Consequently, management Bank is directed to reinstate the workman in service with continuity in service, however without back wages.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2003

## AWARD

का. आ. 3338.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट (संदर्भ संख्या 52/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-11-2003 को प्राप्त हुआ था।

[ सं० एल-12011/60/2000-आई.आर.(बी-II) ]  
सी. गंगाधरण, अवर सचिव

New Delhi, the 11th November, 2003

S.O. 3338.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 52/2000 of the Central Govt. Industrial Tribunal-cum-Labour Court, Jaipur mentioned in the Annexure, in the industrial dispute between the management of Bank of India and their workmen, received by the Central Government on 10-11-2003

[No. L-12011/60/2000-IR (B-II)]

C. GANGADHARAN, Under Secy.

## ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, JAIPUR

Case No. : CGIT 52/2000

Reference No. L-12011/60/2000/IR(B-II)

Dated: 11-09-2000

The General Secretary,  
Bank of India Employees Union (Raj.),  
C/O Bank of India, Choudhary Hotel Building,  
M.I. Road, Jaipur (Rajasthan). .....Applicant Union

Versus

The Regional Manager,  
Bank of India, Regional Office,  
Rajasthan Region, Nakoda House,  
C-63-B, P.B.No.346, Sarojini Nagar,  
C-Scheme, Jaipur, Rajasthan. ....Non-applicant

## PRESENT:

Presiding Officer : Sh. R.C. Sharma.  
For the applicant : Sh. Suresh Kashyap  
For the non-petitioner : Sh. T. P. Sharma  
Date of award : 28-08-2003.

1. The Central Government has referred the following industrial dispute under clause D of Sub-section 1 of Section 10 of the Industrial Disputes Act, 1947 (for short, the Act) for adjudication to this Central Tribunal which reads as under:-

“ Whether the action of the management of the Bank of India management for not regularising the services of Shri Dataram, Badilee Sepoy /Sub Staff claimed to have been working from 3-12-1984 at Rajakhara Branch of Bank of India and who was selected through Employment Exchange is legal and justified? If not, what relief is the workman entitled and from what date?”

2. The Union in its statement of claim has pleaded that the workman Sh. Dataram was appointed on 3-12-1984 as Sepoy /Badilee by the non-applicant management after duly selecting him and that his name was sponsored by the Employment Exchange. He is since then continuously working with the non-applicant management and the nature of his work is perennial to that of the regular post. It is further averred that the workman is getting the basic salary, DA, House Rent Allowance, which is admissible to a permanent Sepoy, but since he has not been confirmed as Sepoy he is not getting the facilities which are admissible to the confirmed Sepoy. The workman is working for the last 16 years with the non-applicant management and not regularising his service amounts to unfair labour practice. As per the averments of the Union, this act of the non-applicant management is unfair labour practice in view of Section 2 (ra) read with Schedule 5 of the Act. The workman had represented before the management, but his request was turned down. Aggrieved by it, he raised an industrial dispute before the Conciliation Officer, who submitted the failure report to the Central Govt. The Union has prayed that the service of the workman may be regularised on the post of the Sepoy/Sub-staff.

3. Resisting the plea, the non-applicant in his written statement has stated that the present controversy does not fall within the definition of the industrial dispute under the provision of the Act., that the workman was appointed on a fixed term for casual work and after expiry of the contractual period the employment automatically came to an end. He has pleaded that the controversy falls within the ambit of Section 2(oo)(bb) of the Act. He has also stated that in the non-applicant establishment the regular employees are appointed after following the prescribed procedure and the workman was appointed on the temporary post. He has denied the allegation levelled by the Union that the non-applicant management has adopted the unfair labour practice towards the workman.

4. On pleadings the following points for determination were framed:—

1. आया यूनियन के द्वारा उठाया गया विवाद औद्योगिक विवाद की श्रेणी में नहीं आता व निर्देश आदेश में वर्णित श्रमिक अप्रार्थी बैंक के कार्यचारी नहीं है ?

2. आया निर्देश आदेश में वर्णित श्रमिकों को अप्रार्थी संस्थान में आकस्मिक कार्य की पूर्ति के लिए एक निश्चित समयावधि के लिए नियुक्त किया गया था, यदि हाँ तो इसका प्रभाव ?

3. आया प्रार्थी श्रमिकगण अप्रार्थी संस्थान में नियमित होते के अधिकारी है।

4. प्रार्थी श्रमिकगण किस सहायता को प्राप्त करने का अधिकारी है।

5. In the evidence on behalf of the Union the affidavit of workman Sh. Dataram has been filed and on behalf of the non-applicant the affidavit of Shri P.C.Jain, Chief Officer has been submitted on the record. The Union has placed on record a letter Ex. W-1, addressed by the Manager to the Regional Manager, Jaipur Region, Jaipur. The non-applicant has chosen not to File any document.

6. I have heard both the parties and have gone through the record.

7. The point-wise discussion follows as under:-

8. **Point No.1 :-** The Id. representative for the non-applicant submits that Shri Dataram is not covered by the definition of workman as defined under Section 2 (S) of the Act. The Id. representative for the Union countering this submission contends that he is a workman.

9. In his written statement, the non-applicant has simply stated that the controversy is not covered by the definition of workman. but no reason thereof could be assigned. Section 2(S) lays down that workman means any person who is employed in an industry to do any manual, unskilled or skilled work for hire or reward, whether the terms of employment be express or implied. It is a case of the Union that the workman was employed on the post of the Badilee/Sepoy in the non-applicant bank and MW-1 Shri P.C.Jain in his cross-examination has admitted that a Sepoy performs the work of cleaning the buildings and keeping the ledger books properly etc. Under these circumstances the contention advanced by the Id. representative for the non-applicant that the worker is not covered by the definition under section 2(S) of the Act., is not tenable and is rejected. This point is thus decided against the non-applicant.

9. **Point No.2 :-** The Id. representative for the Union contends that the workman was appointed as Sepoy on 3-12-1984 and his appointment was made through proper channel who has completed near about 20 years of service with the non-applicant. Even then, the non-applicant has not regularised the service which is an unfair labour practice under section 2 (ra) and clause 10 of the 5th Schedule and is prohibited under section 25(T) of the Act, and also punishable under section 25(U) of the Act. He further contends that his name was called from employment exchange and this plea of the Union as stated at para No.3 of the statement of claim has not been specifically denied by the non-applicant at para No. 3 of the written statement. He urges that on these grounds the workman is entitled for the regularisation.

10. Arguing contra, the Id. representative on behalf of the non-applicant submits that the case of the Union is only for regularisation of the service of workman and merely working for 20 years does not create any right in his favour until he fulfills the requirements or criteria for regularisation or absorption prescribed by the management. His contention is that there is a prescribed procedure for regularising the service of the workman. The next submission made on behalf of the non-applicant is that it was a contractual engagement which falls under Section 2(oo) (bb) of the Act and that no workman named in the panel has been regularised by the non-applicant as yet. Lastly, the Id. representative for the non-applicant submits that at present there is no vacancy of the post of Sepoy in the Bank.

11. I have given by thoughtful consideration to the rival contentions. So far as the duly appointment of the workman to the post of Badilee is concerned, two factors are noticeable. Firstly, his name was called from the employment exchange and this plea has been incorporated by the Union at para No. 3 of the claim statement, which could not be specifically denied by the non-applicant at para No.3 of his written statement.

12. Now I turn to another factor of the duly selection of the workman to the posting in question. The Id. representative for the workman has relied upon Ex. -W/1, a letter addressed by the Manager of the non-applicant bank to the Regional Manager, Jaipur region, Jaipur with regard to the formation of fresh panels of Badilees who qualified the written test held on 26-02-1984. This letter exhibits the panel of three selected Badilees and at serial No. 2 ranks the name of workman Sh.Dataram. This letter was written on 4-7-1984. The Union has specifically pleaded that the workman was duly selected for this post who is working since 3-12-1984 till today and this plea could not be rebutted by the non-applicant. Letter, Ex. W/1 is even admitted by MW-2 Shri P.C.Jain, which clearly indicates that the workman was duly appointed to the post of Badilee. Hence, the Union has been successful in establishing the facts



that the name of the workman was called from the employment exchange and that he was duly selected for this post, who is working with the non-applicant management till today.

13. The workman in his cross-examination has stated that since 1984 the Badilees who were senior to him have been regularised and that he was appointed to this post on transfer of a permanent employee. As against the testimony of the workman, MW-1 Sh. P.C. Jain could not be able to give a definite reply as to whether the workman was working against the vacant post of a permanent Sepoy and has pleaded his unawareness of the factual position in this regard. Thus, the evidence led by the Union is positive and definite which further leads to infer that the workman was appointed against the vacant post of the permanent Sepoy.

14. The stand adopted by the non-applicant is that it was simply a contractual engagement, which does not give any right of regularisation to the workman. Firstly, the non-applicant has not brought any document on the record to prove this point and, secondly, the oral evidence led this point is vague. MW-1 Sh. P.C. Jain in his affidavit at para 9 has stated that the workman was engaged on account of leave of the permanent employee of the Bank, but in his cross-examination he has admitted that no such document in this regard has been submitted on the record. He has stated at para 3 that the workman was given temporary appointment for specific period only to meet out certain urgent work and when the work was over his service automatically terminated without information. But, in his cross-examination he has again admitted that no such document has been placed on the record. Apart these factors, on behalf of the non-applicant even it has not been disclosed upto which period the workman was required to work on this post. How many days in total he had worked with the non-applicant management could not be pointed out by the non-applicant, whereas on the basis of the evidence led by both the parties it is revealed that the workman for the last 19 years is working with the non-applicant management without getting the benefits admissible to the regular Badilees. This act on the part of the non-applicant management falls under Section -2 (ra) read with clause 10 of the Schedule 5 of the Act which runs as under :—

#### The Fifth Schedule

#### Unfair Labour Practice

Clause 10 : To employ workmen as "badlees", casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen."

15. Undisputedly, Section 25 prohibits the unfair labour practice.

16. The Ld. representative in support of his contention has relied upon FLR 1988 (56) SC 121 in the matter between U.P. INCOME-TAX DEPT. CONTINGENT PAID STAFF WELFARE ASSOCIATION and UNION OF INDIA and others, wherein the workers were the contingent paid staff in the Income-tax Department, who worked rendering the services of 4th class employees for a large number of years and their services were not regularised and no steps were taken to absorb them as members of the class IV services and they were paid wages as daily rated labourers lower than the salary and allowance which the class IV employees of the department were drawing. The Hon'ble Supreme Court has expressed its views as under :—

"We accordingly allow this writ petition and direct the respondents to pay wages to the workmen who are employed as the contingent paid staff of the Income-tax Department throughout India, doing the work of Class IV employees at the rates equivalent to the minimum pay in the pay scale of the regularly employed workers in the corresponding cadres, without any increments with effect from 1st December 1986."

17. Thus, the submissions advanced by the Ld. representative for the Union are fortified by the judicial verdict supra and are sustainable. Accordingly, this point is decided in favour of the Union.

18. Points No. 3 & 4 :—Both these points relate to the relief to be granted to the workman. On the basis of the aforesaid discussion, the Union has been able to establish that the workman Sh. Dataram is entitled for the regularisation of the service to the post of the Badilee/Sepoy and further he is entitled to get all the benefits which are admissible to the regular Badilees. These points are thus answered in favour of the Union.

19. In the result, the reference in answered in the affirmative in favour of the Union and against the non-applicant. The award is passed in this manner that the action of the Bank of India management for not regularising the service of Shri Dataram, Badilee/Sepoy is not legal and justified and he is entitled for regularisation of his service on the said post since the date of his joining the duty i.e.w.e.f. 3-12-1984. It is further held that he would get all the benefits which are admissible to the regularly appointed Badilees.

R. C. SHARMA, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2003

का. आ. 3339.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (संदर्भ संख्या 22/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-11-2003 को प्राप्त हुआ था।

[सं० एल-12012/174/2002-आई.आर.(बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 11th November, 2003

**S.O. 3339.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. L22/2003) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Union Bank of India, and their workmen, received by the Central Government on 10-11-2003.

[No. L-12012/174/2002-IR (B-II)]

C. GANGADHARAN, Under Secy.

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

#### PRESENT

SHRIKANT SHUKLA

PRESIDING OFFICER

I.D. No: 22/2003

Ref. No. L-12012/174/2002-IR (B-II) dated: 31.1.2003/  
10.2.2003

#### BETWEEN

Sh. Anil Kumar Prajapati, S/o Vishwakarma Ram  
Prajapati R/o Mohalla, Tulsi Sagar, P.O. Peer Nagar, Gazipur.

#### AND

The Assistant General Manager  
Union Bank of India, Nodal Regional Office,  
Kaparthala Complex, Aliganj, Lucknow (U.P.)-226020.

#### AWARD

The Government of India, Ministry of Labour vide

their order No. L-12012/174/2002-IR(B-II) dated: 31-1-2003/  
10-2-2003 has referred following issue for adjudication to  
this Tribunal;

"Whether the claim of Shri Anil Kumar Prajapati S/o  
Shri Vishwakarma Prajapati that he has rendered a  
continuous service of one year with the Bank is  
maintainable? If yes, whether his termination from  
the service w.e.f. 31-12-2000 is legal and justified? If  
not, what relief the workman is entitled for?"

Shri Anil Kumar Prajapati has filed the statement of  
claim on 5-3-2003 along with unverified affidavit. The  
workman's case is that he was appointed by the Branch  
Manager, Union Bank of India, Main Branch, Lal Darwaja,  
Gazipur on the post of waterman-cum-messenger on 1-9-1999,  
on the monthly salary of Rs. 600/- per month. He has also  
alleged that he has put in uninterrupted service of the Bank  
from 1-9-1999 to 30.12.2000. However, he alleges that he  
was paid through cash voucher and petty cash vouchers.  
He has also given details of cash vouchers as follows:—

Sl. No.	Date of Voucher	Amount	Purpose for which paid
1	2	3	4
1.	5-8-2002	20/-	Clearing of cooler
2.	21-9-2000	10/-	For filling water
3.	8-7-2000	10/-	For filling water
4.	18-4-2000	30/-	For binging wiper
5.	22-3-2000	140/-	Cost of soap
6.	28-2-2000	15/-	For carrying statement to the Regional Office of the Bank from the Branch Office.
7.	5-2-2000	5/-	For carrying statement to the Regional Office of the Bank from the Branch Office.
8.	5-8-2000	20/-	Cleaning of cooler
9.	21-9-2000	10/-	For filling water.
10.	2-3-2000	21/-	For purchasing vim ultra for cleaning glasses.
11.	18-8-2000	20.50	For purchasing one Kg. Vim ultra and 1 lifebuoy soap cake.

1	2	3	4
12.	21-7-2000	21/-	For cost of tea supply in making
13.	7-6-2000	15/-	Rickshaw fair from branch office to Regional Office and Bank
14.	31-8-2000	30/-	For working in main hall of the Bank
15.	31-7-2000	17/-	Cost of two candles paid to the workman
16.	18-3-2000	300/-	For staff meeting expenses for the eve of Holi
17.	30-8-2000	90/-	Cost of six glass purchase for the Bank
18.	15-7-2000	120/-	Misc. expenses for staff meeting held on 14-7-2000
19.	2-9-2000	131/-	Expenses towards tea etc. in the Bank
20.	3-6-2000	149/-	Towards Misc. expenses as per bill dated 2-6-2000 paid to Agarwal Electrostate centre

The workman stated that his wages were paid through fictitious vouchers shown for the purpose of sub fictitious purchase and fictitious service to avoid payment against wages. He also alleges that his services were terminated on 3-12-2000. The applicant's case that he represented vide his representation dated 28-12-2000 and requested the Bank to appoint him on the vacant post in terms of advertisement No. 1/3-1/2/3-14. The copy of the advertisement was proposed to be produced along with the documents. He has neither been paid retrenchment compensation nor one month notice was given to him hence the termination of his services is illegal and he is entitled to reinstatement.

The opposite party i.e. Union Bank of India has filed the written statement and has denied the allegations contained in the statement of claim. The opposite party has stated that applicant was never appointed/recruited at Main Branch, Ghazipur at any point of time by the Branch Manager or any authority of the Bank and in fact there is no post of waterman-cum-messenger in the organisation of the opposite party Bank. It is also stated that as per his own version as contained in para 5 of his claim statement, it is clear that the payment shown are not towards monthly wages as alleged by the workman. Since the claimant was never appointed by the Bank and hence there is no question of termination and the workman is not entitled to any relief

whatsoever. In additional pleas it had been pleaded that the opposite party Bank is an undertaking of Government of India and it got it's rules for appointments of peons. No appointment of peon can be made otherwise than complying with these rules. In the matter of clerical/subordinate staff, Branch Manager is not the appointing authority; hence there is no question of appointment by the Branch Manager, Main Branch, Gazipur. It is also alleged that the workman has never performed any duties as alleged and in fact there is no post of waterman cum messenger in the organisation of opposite party Bank. In para 17 of the written statement it is alleged that.

"That in the leading case of Himanshu Kumar Vidyarathi Vs State of Bihar, 1997 Lab I.C. 2075, Hon'ble Supreme Court has laid down that dispute regarding termination of daily wager and further whose appointment is not according to rules is exempted from the operation of provisions of Industrial Disputes Act, 1947."

It has been requested that the claimant is not entitled to any relief whatsoever. The opposite party has filed the printed staff Circular No. 2018 dated 16-1-1978, General Manager (Personnel)'s letter No. DP:PPS:NLK:1147:2002 dated : 29-10-2002 and photo copy of letter of Assistant General Manager No. NROL:DP:1147:02 dated : 16-11-2002.

The worker absented on the date of hearing i.e. 25-9-2003 and therefore, the Court ordered the case to proceed ex-parte against him.

The opposite party has examined Manager (Personnel), Shri S. N. Mehra and the closed the evidence. The workman did not turn up even on the date of argument, therefore, heard only Bank's representative.

The worker has failed to prove that he worked for 240 days in the Bank. According to the para 5 of the statement of claim, he has been paid petty amounts for filling water, cost of wiper, soap, cleaning cooler etc. do not show that he had been paid wages at the rate of Rs. 600/- per month as alleged by him. On the other hand the opposite party has proved that there is no post of waterman cum messenger in the Bank. The opposite party has also proved that the sub staff is appointed as per rules of the Bank and the appointing authority of the Bank is not the Branch Manager. The opposite party has also proved that the Branch Manager has no power to select any one to appoint as sub staff either temporary or permanent. The opposite party has proved that the claimant was not appointed on the sub staff post. It has been proved that the claimant did not work for 240 days in the calendar year.

On the basis of evidence of the opposite party, I come to the conclusion that the worker, Shri Anil Kumar

Prajapati was not appointed in the Bank. The claimant has failed to prove that he has rendered continuous service of one year with the Bank. Since he was not appointed and therefore, there is no question of his termination. The issue referred is accordingly answered and therefore, I am of opinion that the workman is not entitled to any relief whatsoever.

SHRIKANT SHUKLA, Presiding Officer

29-10-2003

LUCKNOW

नई दिल्ली, 11 नवम्बर, 2003

का. आ. 3340.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 51/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-11-2003 को प्राप्त हुआ था।

[सं० एल-12011/155/2000-आई.आर.(बी-II)]  
सी. गंगाधरण, अवर सचिव

New Delhi, the 11th November, 2003

S.O. 3340.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 51/2000 of the Central Govt. Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the industrial dispute between the management of Bank of India, and their workmen, received by the Central Government on 10-11-2003.

[No. L-12011/155/2000-IR (B-II)]

C. GANGADHARAN, Under Secy.

#### ANNEXURE

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JAIPUR

Case No. : CGIT 51/2000

Reference No. L-12011/155/2000/IR(B-II)  
Dated : 15-09-2000

The General Secretary,  
Bank of India Employees Union (Raj.),

C/O Bank of India, Choudhary Hotel Building,  
M.I. Road, Jaipur (Rajasthan).

..... Applicant Union

#### Versus

The Regional Manager, Bank of India  
Regional Office, Rajasthan Region, Nakoda House,  
C-63-B, P.B.No. 346, Sarojini Nagar,  
C-Scheme, Jaipur, Rajasthan.

..... Non-applicant

#### Present :

Presiding Officer : Shri R. C. Sharma

#### APPEARANCES :

For the applicant : Shri Suresh Kashyap

For the non-petitioner : Shri T. P. Sharma

Date of award : 29-08-2003.

#### AWARD

1. The Central Government has referred the following industrial dispute under clause D of Sub-section 1 of Section 10 of the Industrial Disputes Act, 1947 (for short, the Act) for adjudication to this Central Govt. Industrial Tribunal, Jaipur which runs as under :—

“Whether the action of the management of Bank of India in not regularising the services of 9 Safai Karamcharis (as mentioned below) against the permanent vacancies of Sweeper in various branches of the bank in Rajasthan is justified? If not, what relief the workmen concerned are entitled to?”

#### NAME OF THE DISPUTANT

- (1) Shri/Smt. Manoharlal, (2) Indra Kumar,  
(3) Rajrani, (4) Sankhal Ram, (5) Gurusharan,  
(6) Nand Kishor, (7) Fulvati, (8) Vinod Kumar,  
(9) Kamlesh Kumar.

2. The Union in its statement of claim has pleaded that the workmen, who are its members, are working in the various branches on the posts of the Sweepers since 1990. But neither they are being paid as per the Bi-partite settlement with the banks, nor they are getting the benefits which are admissible to the other employees. It is further averred that their work is of the perennial nature and that they are eligible to the post of the regular Sweepers. As per the averments the act of the non-applicant management not to declare them permanent employees amounts to

unfair labour practice which is prohibited under Section 25(T) of the Act. Their request to regularise their service was denied by the management. The Union has prayed that the services of these 9 workmen may be regularised on the posts of the Sweepers and they may be allowed to get all the benefits which are admissible to the regular employees.

3. Denying the facts as stated in the statement of claim, the non-applicant in his written statement has stated that this dispute does not fall within the definition of Section 2 (S) of the Act, that the workmen were employed to perform the casual work with the non-applicant bank for a fixed term and after expiry of the term the contract automatically came to an end. Hence the case is covered by Section 2 (oo) (bb) of the Act. It is further pleaded that separate procedure is prescribed to appoint the regular employees in the bank and prior to their appointment the names of the candidates were not called from the employment exchange.

4. On pleading the following points for determination were framed :—

- (1) आया यूनियन के द्वारा उठाया गया विवाद औद्योगिक विवाद की श्रेणी में नहीं आता व निर्देश आदेश में वर्णित श्रमिक अप्रार्थी बैंक के कर्मचारी नहीं हैं ?
- (2) आया निर्देश आदेश में वर्णित श्रमिकों को अप्रार्थी संस्थान में आकस्मिक कार्य की पूर्ति के लिए एक निश्चित समयावधि के लिए नियुक्त किया गया था, यदि हां तो इसका प्रभाव ?
- (3) आया प्रार्थी श्रमिकगण अप्रार्थी संस्थान में नियमित होने के अधिकारी हैं ?
- (4) प्रार्थी श्रमिकगण किस सहायता को प्राप्त करने के अधिकारी हैं ?

5. In the evidence applicant Union has produced the affidavits of 8 workmen out of 9 workmen viz. that of Sh./Smt. (1) Manoharlal, (2) Rajrani, (3) Sankhal Ram, (4) Gurusharan, (5) Nand Kishor, (6) Fulvati, (7) Vinod Kumar, (8) Kamlesh Kumar and that of Shri Ramgopal Sharma, the Secretary of the Union. On behalf of the non-applicant the affidavit of Shri P.C. Jain, Chief Officer has been placed on the record.

6. The Union applicant has submitted a chart Ex. W-1, the list of the workmen. The non-applicant has chosen not to file any document on the record.

7. I have heard both the parties and have gone through the record.

8. The point wise discussion follows as under :—

9. Point No.1 :— The Ld. representative for the non-applicant submits that Sh./Smt. (1) Manoharlal, (2) Indra Kumar, (3) Rajrani, (4) Sankhal Ram, (5) Gurusharan, (6) Nand Kishor, (7) Fulvati, (8) Vinod Kumar, (9) Kamlesh Kumar are not covered by the definition of workman as defined under Section 2 (S) of the Act. The Ld. Representative for the union countering this submission contends that all the workers named above are workmen.

10. In his written statement, the non-applicant has simply stated that the controversy is not covered by the definition of workman, but no reason thereof could be assigned. Section 2 (S) of the Act lays down that workman means any person who is employed in an industry to do any manual, unskilled or skilled work for hire or reward, whether the terms of employment be express or implied. It is the case of the Union that the workmen were employed by the non-applicant bank on the posts of Sweepers in the various branches, who are continuously working there. MW-1 Sh. P.C. Jain has deposed that the workers were engaged as Sweepers by the non-applicant management for the temporary period. Under these circumstances the workers are covered by the definition under Section 2(S) of the Act and they can be termed as the workmen in view of the provisions laid down in the aforesaid Section. Thus, I find no force in the contention advanced by the ld. representative for the non-applicant and this point is decided against the non-applicant.

11. POINT NO. 2 :— The ld. representative for the applicant Union submits that permanent posts of the Sweepers are lying vacant in the bank, but the management is not intentionally regularising the services of these workmen, who are working as Sweepers in various branches of the non-applicant bank for the last 10 or 12 years. The ld. representative further contends that these facts have not been denied by the non-applicant, but it has been simply stated on behalf of the non-applicant that services of the workmen can only be regularised according to rules. The ld. representative also urges that the entire relevant record must be in possession of the non-applicant bank which has not been produced before the Court. According to his contention it is not a case under Section 2 (oo) (bb) of the Act., but it is matter of the regularization only. The ld. representative in support of his contention has referred to the decisions cited in 1988 (56) U.P.L.C. DEPT. C.P.S v. Union of India (S.C.) 121 and D.R.C.L. Emp. P. & T Deptt v. Union of India (S.C.) 842.

12. Arguing contra the ld. representative for the non-applicant contends that there is no permanent vacant posts of Sweepers in the bank and therefore the question of regularisation of the services of the workmen does not arise, that some of the workmen have admitted that they are not in the service, that their attendance was not marked

in the attendance registers, that the permanent post in the bank are filled up as per the prescribed norms, that no such casual worker has been regularised on the post and that the judgments referred to on behalf of the Union are not applicable to this case.

13. I have reflected over the rival contentions and have scanned the record.

14. Admittedly, the applicant Union has not been able to place on the record any document e.g. the appointment letter, the slip of wages or the attendance register which could show that the workmen have been recruited on the post of the Sweepers by the non-applicant bank. The Union has brought on record only one document, which is EX. W-1, a list of the workmen along with the details of their employment with the non-applicant bank. The entire case thus hinges upon the oral testimony led by both the parties.

15. In short, the case of the applicant Union is that the workmen were employed by the management on the posts of the Sweepers who are working since 1990 respectively and they are performing the work which is performed by the regular employees. As against it, the stand adopted by the non-applicant is that the workmen were engaged temporarily on the posts of the Sweepers for a specific period to meet out certain urgent work.

16. Now it has to be assessed on the basis of the oral evidence adduced by the applicant Union as to whether it has been able to prove this fact that the workmen were employed against the vacant posts who are rendering the same kind of services which is being rendered by the regular employees doing same type of work. The Union has examined 3 workmen along with its Secretary Shri Ram Gopal Sharma. Smt. Rajrani in her cross-examination has deposed that after 2 years of her employment, she was paid Rs. 20 per day as wages by the management. Smt. Fulwati has admitted that no appointment letter was given to her and she has to perform the work from 8 a.m. to 12 p.m. in the office. Workman Manoharlal has admitted that there is only one post vacant in the office on which sometimes he worked and on some occasions the work was performed by other persons. Kamlesh Kumar has disclosed in his cross-examination that he is discharging the functions of IVth class Daffari and that his attendance is not marked in the attendance register. Nand Kishore, workman has admitted that before his employment in the bank he had not submitted any application before the Manager and that he has no proof of working with the bank. The next workman Guru Sharan has too admitted that no appointment letter was given to him. Vinod Kumar has also admitted the fact that pertaining to his employment no written order was

given to him and that his name was not called from the employment exchange. Sankhala Ram in his cross-examination has disclosed that he used to receive the payment of wages after 10 or 15 days.

17. These workmen have also admitted in their cross-examination respectively that no appointment letters were issued to them, that their attendance was not marked in the attendance register maintained by the office, that their names were not sponsored by the employment exchange, that after their employment no person working on such post was regularised by the management and they have pleaded the unawareness about the existing vacancy of the permanent posts of the Sweepers. Thus, it is crystal clear that the evidence adduced on behalf of the Union is of feeble nature and Union could not be able to prove the pertinent facts that the workmen were engaged by the management against the permanent posts and that the nature of the job performed by them is perennial. In other words, it could not be shown that the workmen are rendering the same kind of services which are being rendered by the regular employees doing the same type of work. In addition to these facts, it is pertinent to note here that the workmen Smt. Rajrani and Manoharlal have respectively admitted in their depositions that 2 or 3 months ago they have been disengaged by the management.

18. The non-applicant has categorically stated that the workmen were engaged as Sweepers and the terms and conditions of their temporary appointment were informed to them. Shri P. C. Jain has been examined on behalf of the non-applicant, who could not be shaken on this point.

19. To conclude, the applicant Union has failed to prove that the workmen were recruited by the non-applicant management against the permanent vacancy and they are performing the same kind of work which is discharged by the regular employees. In the decisions referred to by the Id. representative by the applicant Union 1988 (56) U.P.L.C. DEPT. C.P.S v. Union of India (S.C.) 121 and D.R.C.L. Emp. P & T Deptt v. Union of India (S.C.) 842, the facts disclosed that the workmen were performing the work which was being rendered by the regular employees and accordingly they were allowed for their absorption in the services. Apparently, in the case in hand it has been held under the forgoing discussion that the work performed by the workmen is not of a perennial nature. Hence, the Id. representative does not find any help from the decisions referred to supra and the submissions made by the Id. representative for the Union are not tenable. Hence, this point is accordingly decided against the applicant Union.

20. POINTS No 3 & 4 :— In view of the finding arrived at in point no. 2, the workmen are not entitled for the regularisation in the service.



21. On the basis of the conclusion drawn under point no. 2, this reference is answered in the negative against the applicant Union and it is held that the claim submitted by the applicant Union does not deserve to be allowed and that the workmen named in the reference are not entitled for the regularisation of their services as Safai Karamcharis with the non-applicant bank.

22. The Award is passed accordingly.

R. C. SHARMA, Presiding Officer

नई दिल्ली, 12 नवम्बर, 2003

का. आ. 3341.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईस्टर्न रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कम-लेबर कोर्ट, लखनऊ के पंचाट (संदर्भ संख्या आई डी नं. 155/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-11-2003 को प्राप्त हुआ था।

[सं० एल-41012/76/2002-आई.आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 12th November, 2003

S.O. 3341.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. I.D. 155/2002) of the Central Government Industrial/Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Eastern Railway, and their workmen, received by the Central Government on 11-11-2003.

[No. L-41012/76/2002-IR (B-I)]

AJAY KUMAR, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, LUCKNOW

#### PRESENT:

Shrikant Shukla

Presiding Officer

I.D. No. : 155/2002

Reference No. L-41012/76/2002/IR(B-I)

Dated: 20-09-2002

Between :

Gokaran S/o Shri Kesari  
R/o Vill. Bhagwatipur,  
Post-Thairava,  
Thana-Kherabad,  
Distt. Sitapur

And

The Sr. Divisional Engineer (1st)  
Eastern Railway, DRM Office  
Ashok Marg, Lucknow/  
The Asstt. Engineer  
Eastern Railway,  
Asstt. Engineer Office, Sitapur.

#### AWARD

Bharat Sarkar Shram Mantralaya, Ministry of Labour  
New Delhi vide their order No. L-41012/76/2002/IR(B-I)  
dated 20-9-2002 has referred following industrial dispute  
for adjudication to this Tribunal :

क्या प्रबंधन पूर्वोक्त रेलवे, लखनऊ द्वारा श्री गोकर्न पुत्र श्री केशरी गेटमैन को दिनांक 22-12-88 को नौकरी से निकाला जाना न्यायोचित तथा न्याय संगत है ? यदि नहीं तो कर्मकार किस अनुतोष को अधिकारी है।

The allegation in brief of the worker is that he was Gateman and was working under Asstt. Engineering Deptt., Sitapur and PWI, Sitapur at gate No. 72B. He was on duty at 9.45 P.M. on 9-1-1988 and while he was doing his duty a roadways bus which was going towards Khairabad Workshop 2 collided with train ignoring red light and he got the FIR registered under section 304a/427 IPC at Police Station Khairabad, Sitapur. The next following day i.e. 10-1-1988 PWI suspended the worker from immediate effect and subsequently dismissed from service vide letter dated 22-12-88 illegally. Although the worker was acquitted from the court and accordingly the worker has requested that his termination be rejected and he be reinstated with full back wages.

The O.P. contested the claim of the worker and filed his W.S. The O.P. has denied the allegations of the worker and has alleged that the workman was responsible for not observing the rule which resulted in accident.

However, punishment imposed on the worker was reduced and he was compulsary retired from the service. On 9-9-2003 the A/R of the worker moved an application that worker has already moved an application to the railway administration for compromise which is pending. He has also requested the case be taken up in Lok Adalat.

Today in Lok Adalat on 29-10-2003 the DRM, Railway together with Sr. DPO Sri Shailendra Kumar appeared and delivered the cheque No. G4 80167 with pension papers. Photo copy of which is paper no. C-15 to C-15/2 to C-15/6. Learned A/R of the workman Sri P.K. Tewari accepted cheque on behalf of the workman and has stated that he does not want to press the statement of claim and parties have entered into compromise and he says that accordingly the reference be disposed of.

Since the worker punishment has been revised to the compulsory retirement and the pension is sanctioned and pay order is furnished together with the cheque to the A/R of the workman. The matter of illegality of the order dt. 22-12-88 is not to be gone into and accordingly the issue referred is disposed of in Lok Adalat.

SHRIKANT SHUKLA, Presiding Officers.

नई दिल्ली, 12 नवम्बर, 2003

का. आ. 3342.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, मुम्बई, के पंचाट (संदर्भ संख्या सीजीआईटी 2/202 ऑफ 1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-11-2003 को प्राप्त हुआ था।

[ सं० एल-41012/165/1999-आई.आर.(बी-1) ]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 12th November, 2003

S.O. 3342.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT 2/202 of 1999) of the Central Government Industrial Tribunal No. 2 Mumbai as shown in the Annexure, in the industrial dispute between the management of Central Railway, and their workmen, received by the Central Government on 11-11-2003

[No. L-41012/165/99-IR (B-I)]

AJAY KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 : MUMBAI

Present :

S.N. Saundankar : Presiding Officer

#### Reference No. CGIT 2/202 of 1999

#### EMPLOYERS IN RELATION OF THE MANAGEMENT OF CENTRAL RAILWAY

The General Manager,  
Central Railway,  
Mumbai CST,  
Mumbai-400 001

V/s.

#### THEIR WORKMEN

Shri Ashok Kashinath Salunke,  
Haddiwala Chawl,  
Near Bajrang Mandir,  
Upali Nagar,  
At & Post : Bhusawal,  
Dist : Jalgaon

#### Appearances :

For the Employer	: Ms. Delilah Fernandes, Advocate
For the Workmen	: Mr. Suhas Gore, Advocate

Mumbai, dated 30th September, 2003

#### AWARD

#### Part-II

By the Interim Award dated 22nd July, 2002 this Tribunal held that the domestic inquiry conducted against the workman Salunke was as per the principles of natural Justice and the findings of the Inquiry Officer are not perverse, consequently, point as to whether punishment imposed on the workman in terminating his service is legal and justified in the context of the action of the management in the light of the Issues No. 3 & 4 remained for the adjudication of this Tribunal.

The punishment as above was imposed on the workman for the proved charge of unauthorised absence from 12-4-1993 to 13-6-1993 and from 6-9-1993 to 25-1-1994. According to the workman during the material period his wife and sister were suffering from Tuberculosis therefore he was constrained to be at home, consequently he could not report to duty. It is the contention of workman that his family members are dependent on him and that he is the only earning member. He is leading miserable life, and contended that considering the absence, the punishment imposed upon him is harsh and disproportionate. On the other hand, the management Railway contended that by not reporting to duty for long period as above, workman



created obstacle in the smooth working of the Railway department and thus his past record is blemished and therefore the punishment imposed is adequate and proportionate.

3. Workman filed affidavit in lieu of Examination-in-Chief (Exhibit 24) and the Assistant Personal Officer Shri Sharma for the management (Exhibit 28).

4. Workman filed written submission Exhibit 31 and the management Exhibit 32. On perusing the written submissions and hearing the counsels, I record my findings on the issues for the reasons mentioned below :

Issues	Findings
3. Whether the action of the management in terminating the services of Ashok Salunke w.e.f. 31-5-1995 is legal and justified?	No
4. If not, to what relief the workman is entitled to?	As per order below.

#### REASONS

5. So far power under section 11-A of Industrial Disputes Act is concerned. Their Lordships of Supreme Court in Mithilesh Singh V/s. Union of India & Ors. 2003 SCC L&S 271 clearly observed :

"the scope of interference with punishment awarded by Disciplinary Authority under section 11-A of the Industrial Disputes Act is very limited and unless the punishment appears to be shockingly disproportionate, the court cannot interfere with the same".

6. Workman Salunke was terminated from the service based on the findings recorded by the Inquiry Officer on his absence from 12-4-1993 to 13-6-1993 and from 6-9-1993 to 25-1-1994. Admittedly workman did not report to duty during the period as above. According to him, he was absent for some reasons i.e. due to severe illness of his sister and wife. He has produced medical certificates to that effect with list (Exhibit 7). It is not that workman's near relations were not sick and in this context his absence speaks volume. The Learned Counsel Ms. Fernandes at this juncture submits that, long absence of workman created obstacle in the smooth working of Railway department, therefore under the Railway Service Rules the punishment as prescribed, has been imposed which is proportionate and apt. She relied on Mithilesh Singh V/s. Union of India & Ors. 2003 SCC L&S 271 wherein Their Lordships observed "absence from duty without prior

intimation is a grave offence warranting removal from service". As stated above, workman had produced medical certificates showing illness of his wife and the near relative which, he was constrained to be at home and consequently he seems to have not reported to duty.

7. True it is, fact remains that the workman remained absent. Now point crops on as to whether for this absence punishment of termination is justified. It is well settled that penalty must be commensurate with the gravity of offence charged. Discretion conferred by Section 11-A of the I.D. Act on the Tribunal is to be exercised considering the case as a whole. Workman in his affidavit disclosed that he is leading miserable life. His family members viz. three children, mother, brother, sister are dependent on him. The fact that no blemished past record has been put forth, the workman was a poor Ladder-Man put about 15—17 years considering the extenuating circumstances, in the light of the observation in the case discussed supra, to my view, punishment of termination imposed on the workman is rather harsh and disproportionate and it needs to be interfered and that punishment of withholding of two increments in future is apt and proportionate and the same needs to be imposed.

8. It is in the evidence of workman that he does labour work and gets Rs. 30/- to 40/- per day thereby he is gainfully employed, consequently, he is not entitled to back wages. Issues are therefore answered accordingly and hence the order :

#### ORDER

The action of the management of Central Railway, Bhusawal in terminating the services of Shri Ashok Kashinath Salunke w.e.f. 31-5-1995 for his alleged absence from duty is disproportionate, not legal and justified and that punishment of stoppage of two increments for the future is apt and proportionate.

Management consequently is directed to reinstate the workman in service with continuity in service, however, without back wages.

S.N. SAUNDANKAR, Presiding Officers.

नई दिल्ली, 12 नवम्बर, 2003

का. आ. 3343.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं०-II, मुम्बई के पंचाट (संदर्भ संख्या सीजीआईटी 2/216/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-11-03 को प्राप्त हुआ था।

[ सं० एल-12011/40/99-आई.आर.(बी-1) ]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 12th November, 2003

FOR THE WORKMEN : Mr. H.M. Nabar,  
Representative.

Mumbai, dated 5th September, 2003

### AWARD

**S.O. 3343.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/216 of 1999) of the Central Government Industrial Tribunal No. 2, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 11-11-2003.

[No.L-12011/40/99-IR(B.I)]

AJAY KUMAR, Desk Officer

### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

### PRESENT:

S.N. Saundankar,

Presiding Officer

Reference No. CGIT-2/216 of 1999

### EMPLOYERS IN RELATION TO THE MANAGEMENT OF STATE BANK OF INDIA

The Deputy General Manager II,  
State Bank of India,  
Zonal Office,  
D. G. P. House,  
Old Prabhadevi Road,  
Mumbai - 400025

V/s.

### THEIR WORKMEN

The Deputy General Secretary,  
State Bank of India Karmachari Sena,  
D. G. P. House,  
Old Prabhadevi Road,  
Mumbai-400025

### APPEARANCES:

FOR THE EMPLOYER : S/Shri R.K. Joshi &  
S.V. Ghadigaonkar,  
Representatives.

The Government of India, Ministry of Labour by its Order No. L-12011/40/99/IR(B-I) dated 22-11-1999 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of State Bank of India, Mumbai in terminating the services of Shri Pramod J. Patil and Ram K. Sawant, Messengers, w.e.f. 31-1-1995 and 15-3-1997 respectively and not regularising the services is legal and justified? If not, what relief the workmen concerned are entitled to?”

2. Two workers under reference viz. Patil and Sawant were engaged by the management Bank as Sub-Staff. Vide Claim Statement (Exhibit 7) State Bank of India Karmachari Sena averred that Patil was employed at the Alibag Branch of the Bank as Watchman and that he worked there for a total period of 1154 days from 20-2-1987 to 22-5-1993 and that thereafter he was transferred to Salav Branch where he worked as temporary Messenger for 504 days from 23-5-1993 to 30-1-1995. It is pleaded that workman Patil was empanelled and that as per the circular of the Bank and in view of the Bipartite Settlement, Patil who worked more than 240 days and was empanelled, cannot be discontinued without assigning any reason, however, the management Bank discontinued him w.e.f. 31-1-1995 without notice and therefore his discontinuation amounts to retrenchment and the same being contrary to the provisions of Section 25 F of the Industrial Disputes Act is illegal. It is further averred by the Union that the workman Sawant worked as temporary Messenger on daily wages for a period of 483 days from July 1995 to 15-3-1997 and that he was paid on ad-hoc basis under vouchers. It is contended that though Sawant worked more than 240 days and despite there being no provision in the Bi-partite Settlement for employment of Messenger he was engaged on daily wages and that without assigning any reasons, he was orally terminated on 15-3-1997, consequently, his disengagement is also illegal. The Union contended that termination of the above said two workmen being illegal, the Bank be directed to reinstate them in service with full back wages.

3. Management State Bank of India resisted the claim of Union vide Written Statement (Exhibit 9) contending that workman Patil though was waitlisted the empanelled

list has been scrapped after 31.3.1997, therefore, he was not eligible for absorption and consequently he was discontinued for which provisions of Section 25 F of the Act are not applicable. It is further contended by the Bank that workman Sawant worked as temporary Messenger on daily wages for 470 days and that his work was purely temporary and as no work exists for him, he was orally discontinued w.e.f. 15-3-1997, consequently his discontinuation also does not attract Section 25 F of the Act. It is the contention of Bank that the claim of both the workmen being devoid of substance be dismissed with costs, in limine.

4. By Rejoinder (Exhibit 11) Union reiterated the recitals in the Claim Statement denying the averments in the Written Statement contending that claim of Patil who worked more than 1154 days and was empanelled, cannot be ignored in the light of the Bipartite Settlement and provisions of the Industrial Disputes Act. In so far as Sawant, it is pointed out that though he was not empanelled, since he worked more than 240 days, his services need to be regularised.

5. On the basis of pleadings Issues were framed at Exhibit 12 and in that context workman Patil and Sawant filed affidavits in lieu of Examination in Chief (Exhibit 20/21) and the Union closed oral evidence vide purshis (Exhibit 24). In rebuttal, Manager (Personnel & HRD) Mr. Ghadigaonkar and Mr. Dhule filed affidavits (Exhibit 26/37) and the Bank closed oral evidence vide purshis (Exhibit 38).

6. Union filed written submissions Exhibit 40 with copies of rulings and the management Bank Exhibit 41. On perusing the record as a whole, written submissions and hearing both the representatives, I record my findings on the following issues for the reasons mentioned below:

Issues	Findings
1. Whether the action of the management State Bank of India, Mumbai in terminating the services of Shri Pramod J. Patil and Ram K. Sawant, Messengers, w.e.f. 31-1-1995 and 15-3-1997 respectively and not regularising their services is legal and justified?	Yes.
2. If not, what relief the workmen concerned are entitled to?	As per order below.

### REASONS

7. Admittedly Pramod Patil was engaged by the Bank as Watchman-cum-Messenger from 20-2-1987 to 22-5-1993

and thereafter from 23-5-1993 to 30-1-1995 for 1154 days and that he was in the waiting list. According to Union since Patil worked more than 240 days continuously and that he was empanelled he should have been absorbed by the Bank however without considering his position, Bank terminated him w.e.f. 31-1-1995 which amounts to retrenchment and that since he has been retrenched without complying the provisions of the Industrial Disputes Act, the action of the management in toto in respect of Patil is also violative of principles of natural justice and consequently, illegal. The Learned Representative for the Union Mr. Nabar inviting attention to the written submissions and the rulings urged with force that Patil deserves to be absorbed in view of the irregularities done by the Bank officials. He submits that workman Patil was waitlisted at Sr. No. 18 and that his juniors viz. Medkar, Songade were inserted and that eventually he was discontinued on the ground the list was scrapped and thereby justice has been caused to him. It is significant to note that, workman Patil was interviewed in 1988 and the waiting list was prepared of the candidates worked during 1987 to 1993. In so far as insertion of names of the persons referred to above, Manager Mr. Ghadigaonkar refuted the same. It is in his evidence that as per the region-wise waiting list candidate at Sr. No. 62 was given appointment and that the waiting list scrapped by virtue of settlement reached between the management and the Federation after 31-3-1997. Since workman Patil was on the waiting list and that it was scrapped before reaching his Serial Number, hardly can be said that any irregularity is done by the Bank officials without placing reliable evidence to that effect. True it is workman Patil worked continuously for more than 240 days as stated above, however he worked as a temporary Sub-Staff.

8. The Learned Representative for the Bank inviting attention to detail written submissions (Exhibit 41) urged that the waitlist terminated employees of the State Bank of India had preferred a Writ Petition before the Hon'ble High Court of Orissa, Cuttack in OJC 9039/97, however, the same was rejected and that appeal against the same was also rejected by the Hon'ble Supreme Court. He submitted that in view of the observations as above, the claim of workman Patil whose case is similar to the petitioners in the said petition, cannot be accepted. The position of such waitlisted employees was the subject matter in OJC 9039/97 before the Hon'ble High Court of Orissa, Cuttack wherein Their Lordships observed:

"The extracted portions clearly show that panels of temporary employees/daily wagers/casual employees were to be kept alive up to March, 1997, as per the norms agreed to between the Bank and the Federation and the identification of messengerial vacancies was to be done on the basis of new norms to be

finalised thereafter. It was also agreed that the modalities about drawing names from either the panel of temporary employees or the panel of daily wagers and casual labour shall be decided administratively on Circle to Circle basis depending upon the local requirements in consultation with the Federation's affiliate by the Circle Management. Irresistible conclusion, therefore, is that after 31-3-1997 the panel ceased to be operative, and new terms were to be operated thereafter. The modalities about drawing names from either the panels of temporary employees or the panel of daily wagers and casual labour was to be decided administratively on Circle to Circle basis depending upon the local requirements in consultation with the Federation's affiliate by the Circle management. Therefore, the local requirements were to be kept in view and it was permissible to draw names from both the list of temporary employees and the list of daily wagers/casual labourers on the basis of aforesaid settlement made in the meeting held on 21-11-1996 between Personnel & HRD Department and SBI Staff Association, Bhubaneswar. Relevant portions of decision have been extracted above. Obviously the modalities worked out between the Bank and the S.B.I. Staff Association has reference to the settlement dated 30-7-1996. There is no dispute so far as that aspect is concerned, what is disputed is the ratio and the power to do that. It is stated that the Federation is not competent to arrive at a settlement. Whether the Federation is competent to enter into the settlement cannot be adjudicated in these batch of writ applications, more so when the Federation is not a party to the writ applications. Additionally the daily wagers whose cases came to be considered on the basis of impugned decisions (settlements) have not been impleaded as parties. All the previous settlements as referred to above were taken note of and a composite scheme was formulated and the modalities were left to be determined administratively on Circle to Circle basis depending upon the local requirements in consultation with the Federation's affiliate. There is no dispute about correctness of the minutes recorded. The decision was taken administratively, and on the basis of the settlement arrived at. The currency of the arrangements made on the basis of the impugned decisions/settlements has come to an end on 31-3-1997. It is pleaded by the petitioners that the modalities may be followed

in future though new norms have not been fixed as yet. We do not think it necessary to go into those hypothetical questions. It goes without saying that if the petitioners feel aggrieved about the norms when formulated the same can be questioned before the appropriate forum/authority.

Above being the position, we find no scope for entertaining the writ applications which are dismissed. No costs."

9. On perusal the documents filed by the Bank it is seen the order passed by the Hon'ble High Court of Orissa in Writ Petition was confirmed by the Hon'ble Supreme Court of India in Appeal No. 3083 of 1999 by the order dated 16-7-1999. On going through the decision of the Hon'ble High Court of Orissa, Cuttack which is applicable to the facts of the case of workman Patil, though he worked more than 240 days and was empanelled, since he was a temporary Sub-Staff and that the waiting list scrapped after 31-3-1997 he cannot be absorbed/regularised. Consequently his claim does not stand to reason.

10. So far workman Sawant is concerned, he was admittedly engaged as Coolie in currency chest of the Bank and he was paid wages as and when work existed. He was admittedly not waitlisted. It is in the evidence of Manager Mr. Dhule that the Branch Manager had no authority to engage services if Sawant as a Coolie and consequently, his engagement was void. Fact however remains that Sawant worked more than 240 days during July 1995 to March 1997 and that he was discontinued orally on 15th March, 1997. On perusal the documents filed with list (Exhibit 14/17) it is apparent that Sawant was a daily wager. Their Lordships of the Supreme Court in Himanshu Kumar Vidyarthi and Ors. V/s. State of Bihar AIR 1997 SC 3657 about daily wagers pointed out that:

"daily wage employee whose services were engaged on the basis of need of work, termination of such employee cannot be construed to be retrenchment."

Since Sawant was a temporary employee cannot claim permanency for which reliance can be had to Syndicate Bank and Ors. V/s. Shankar Paul & Ors. AIR 1997 SC 3091. It is seen that Their Lordships of the Supreme Court vide Judgment and Order dated 16.7.1999 in Appeal No. CC3081 of 1999 referred to supra, while confirming the decision of the Hon'ble High Court of Orissa ruled that the petitioners who were empanelled and had continuously worked more than 240 days were not entitled to get relief.

11. In the light of the decisions referred to above, claim of workman Sawant also does not stand to reason,

consequently claim of both the workmen viz. Patil and Sawant being ill founded, the management has rightly rejected and that the action of the Bank in not absorbing them is wholly legal and proper, consequently their claim deserves to be dismissed. Issues are answered accordingly and hence the order:

### ORDER

The action of the management of State Bank of India, Mumbai in terminating the services of Shri Pramod J. Patil and Ram K. Sawant, Messengers w.e.f. 31.1.1995 and 15.3.1997 respectively and not regularising their service is legal and justified.

S.N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2003

का. आ. 3344.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं०-II, मुम्बई के पंचाट (संदर्भ संख्या सीजीआईटी 2/12 ऑफ 2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-11-2003 को प्राप्त हुआ था।

[ सं० एम्.ए. 41012/183/99-आई.आर.(बी-I) ]  
अजय कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2003

S.O. 3344.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/12 of 2000) of the Central Government Industrial Tribunal, No. 2 Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Railway and their workman, which was received by the Central Government on 12-11-2003

[ No. L - 41012/183/99 - IR (B.I) ]

AJAY KUMAR, Desk Officer

### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2 MUMBAI

### PRESENT :

S.N. Saundankar.

Presiding Officer

Reference No. CGIT-2/12 of 2000

### EMPLOYERS IN RELATION TO THE MANAGEMENT OF CENTRAL RAILWAY

The Chief Workshop Manager,  
Central Railway,  
Matunga Workshop,  
Matunga,  
Mumbai - 400019.

V/s.

### THEIR WORKMEN

Shri Ashok Ramchandra Lokhande,  
Railway Quarter,  
Room No. 5, Chawli No. 8,  
Igatpuri Post,  
Taluka Igatpuri,  
Nasik Dist.

### APPEARANCES :

FOR THE EMPLOYER : Ms. Delilah Fernandes,  
Advocate holding for  
Mr. Suresh Kumar.

FOR THE WORKMEN : Mr. Jaiprakash Sawant,  
Advocate.

Mumbai, dated 8th September, 2003.

### AWARD

#### Part—II

By the Interim Award dated 25-11-2002 this Tribunal held that the domestic inquiry conducted against the workman Lokhande was not as per the principles of natural justice and that findings of the Inquiry Officer are perverse and consequently management Central Railway was directed to lead evidence to justify its action.

2. The simplicitor case of Central Railway is that workman remained absent unauthorisedly from 13.9.1990 onwards for about 515 days and that the said long absence created obstacle in the working of the department and therefore he was removed from the service under Railway Service Rules by the Order dated 16.9.1993. It is contended that the imposed punishment of removal is apt and adequate. On the other hand, workman pointed out that his daughter was missing, his wife was unwell and that due to illness he was admitted in Railway Hospital therefore, he

was constrained to remain absent during the material period. In short, according to workman his absence was for reasons and consequently not unauthorised.

3. As stated above, domestic inquiry held against the workman found vitiated. To prove the action of removal of workman from service in the light of the charges 6 & 7 management Central Railway filed affidavit of Chief Office Superintendent Mr. Patel in lieu of Examination in Chief (Exhibit 34) and closed oral evidence vide purshis (Exhibit 35). Workman Lokhande filed affidavit (Exhibit 36) and closed oral evidence vide purshis (Exhibit 37).

4. Management filed written submissions Exhibit 42 and the workman Exhibit 39. On hearing the counsels and perusing the record and the written submissions, I record my findings on the issues for the reasons mentioned below :

Issues	Findings
6. Whether the action of the management Central Railway Matunga Workshop, Mumbai in removing the services of workman, Shri Ashok Ramchandra Lokhande w.e.f. 16-9-1993 is justified?	Not justified.
7. If not, what relief Shri Lokhande is entitled to?	As per order below.

#### REASONS

5. Workman Lokhande was removed from the service by the Central Railway based on the findings of unauthorised absence from 13-9-1990 for 515 days recorded by Inquiry Officer. Admittedly workman did not report to duty from 13-9-1990. According to him he was absent for some reasons i.e. due to missing of his daughter, illness of his wife and hospitalisation for self sickness. Chief Office Superintendent Mr. Patel in his cross examination para 14 clearly admitted that workman's name was on the sick list maintained by the Central Railway Hospital and that he had produced medical certificate issued by the Railway Hospital, which clearly goes to show workman was sick and consequent event of his hospitalisation. It is not that workman was not sick and that he was not hospitalised. In this context, if we look the absence, speaks volume.

6. The Learned Counsel Ms. Fernandes submits that workman remained absent from duty without prior intimation which is a grave offence warranting removal from service as statutorily described. She has relied on Mithilesh Singh V/s. Union of India and Ors. 2003 SCC (L&S) 271. As stated above Mr. Patel pointed out that the

workman had submitted his medical certificates and that according to workman as seen from his affidavit (Exhibit 36), due to difficulties as above which were beyond his control, he could not apprise the office. It seems due to illness workman could not apprise the office, consequently though he was on long absence, cannot said to be unauthorised, in as much as for genuine reasons, he was away from office.

7. Once it is clear that workman had reason to remain absent from duty, point crops on as to whether the punishment of removal imposed on the workman is disproportionate to the charge of absence from duty. It is well settled that penalty must be commensurate with the gravity of offence charged. Discretion conferred by Section 11-A of the I.D. Act on the management is to be exercised considering the case as a whole. Their Lordships of the Apex Court in the case of Mithilesh Singh referred to above pointed out that the scope of interference with punishment awarded by the Disciplinary Authority is very limited and that it is for the employee concerned to show how the penalty was disproportionate. On going through the rulings in the light of the admission of Chief Office Superintendent Mr. Patel that workman's name was on the sick list maintained by the Central Railway Hospital, he had produced medical certificate issued by the said hospital, his past record was unblemished and that workman had put about 20 years service as Yard Porter. Considering the above factors and the extenuating circumstances to my view, punishment of removal imposed on the workman who is a poor Porter is rather harsh and disproportionate and that it needs to be interfered and that punishment of withholding of two increments in future is apt and proportionate and the same needs to be imposed, consequently issues are answered to that effect and hence the order :

#### ORDER

The action of the management of Central Railway, Matunga Workshop Mumbai in imposing the punishment of removal from service of workman Ashok Ramchandra Lokhande w.e.f. 16.9.1993 is disproportionate and therefore unjustified and that punishment of withholding of two increments in future is adequate and the same is imposed upon him instead of punishment of removal. Consequently, management is directed to reinstate the workman in service with continuity in service, however, without back wages.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2003

का. आ. 3345.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोंकण रेलवे कोरपोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं०-2, मुम्बई-1 के पंचाट (संदर्भ संख्या सीजीआईटी 2/50 ऑफ 2001) को प्रकाशित करती है, जो केन्द्रीय सरकार का 12-11-2003 को प्राप्त हुआ था।

[ सं० एल-41012/5/2001-आई.आर.(बी-1) ]  
अजय कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2003

S.O. 3345.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/50 of 2001) of the Central Government Industrial Tribunal, No.2 Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Konkan Railway Corporation Ltd. and their workman, which was received by the Central Government on 12-11-2003.

[ No. L-41012/5/2001 - IR (B-I) ]

AJAY KUMAR, Desk Officer

**ANNEXURE**

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL No. 2  
MUMBAI

**PRESENT:**

S. N Saundankar

Presiding Officer

**Reference No. CGIT-2/50 of 2001**

EMPLOYERS IN RELATION TO THE  
MANAGEMENT OF KONKAN RAILWAY  
CORPORATION LIMITED, KARWAR, KARNATAKA

The Regional Railway Manager,  
Konkan Railway Corporation Limited,  
Karwar-581306.  
(Karnataka).

V/s.

**THEIR WORKMEN**

Shri Uday M. Raut,  
House No. 205,  
Sal Vairchawada,  
P. O. Assonora,  
Taluka Bicholim,  
North Goa, (Goa).

**APPEARANCES:**

For the Employer : Mr. Gurunath Naik,  
Advocate

For the Workmen : Mr. C. J. Mane  
Representative.

Mumbai, dated the 10th October, 2003

**AWARD**

The Government of India, Ministry of Labour by its Order No. L-41012/5/2001/IR(B-I) dated 24-4-2001 in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Regional Railway Manager, Konkan Railway Corporation Limited, Karwar in terminating the services of Shri Uday M. Raut, Driver w.e.f. 31-3-1998 is justified? If not, what relief the workman is entitled?"

2. Workman Raut was engaged by the management Corporation as Driver in April 1992. Vide Claim Statement (Exhibit 7) workman pleaded that he was regularised in the pay scale of Driver w.e.f. 19-4-1993 and he performed duties as Driver at various projects with sincerity and utmost care. It is the contention of workman that since he met with an accident while on duty and had suffered injuries, he did not attend duty from 3-10-1997 to 27-10-1997 for which he had given Medical certificate for granting of sick leave, however, that was turned down. Workman averred that his wife was sick from 4-12-1997 to 13-12-1997 which he had apprised to office. It is the contention of workman that for the reason of absence on the above grounds, without giving him notice and without holding inquiry Corporation terminated his services contrary to the provisions of Section 25 F of the Industrial Disputes Act and consequently it is illegal. It is contended that workman had approached Chief Engineer, KRCL, to explain his difficulties, but he was not allowed to meet. It is contended since workman is illiterate person depending on others, delay was caused for raising the cause of his termination and therefore contended that the Corporation's action in terminating him, being



unjustified, it be directed to reinstate him in service with full back wages.

3. Management Corporation resisted the claim of workman vide Written Statement (Exhibit 16) contending that the workman was appointed as Vehicle Driver on daily wage basis at the rate of Rs. 40 per day from 15-4-1992 and subsequently on monthly consolidated pay Rs. 1,625 purely on temporary basis, without any right to continue in the service and thereafter in the pay scale of Rs. 950—1500 w.e.f. 19-4-1993 for a period of one year purely on contract basis. It is averred that workman is a chronic absentee. During the period of six months from 1-1-1997 to 30-6-1997 he remained absent for many days and thereby created obstacle in the smooth working of Corporation. He was counselled verbally several times but could not mend his conduct therefore for his absenteeism, he was served charge-sheet dated 12-6-1997, 16-6-1997 and 13-1-1998. It is contention of Corporation that workman since remained absent and despite giving charge-sheet did not respond, taking ex-parte decision, the disciplinary authority removed the workman from service w.e.f. 31-3-1998. It is contended that since workman was dismissed holding inquiry i.e. complying the provisions of Section 25 of the Act, his removal does not amount to retrenchment, consequently, workman's claim being illfounded, be dismissed with costs in limine.

4. By Rejoinder (Exhibit 18) workman reiterated the recitals in the Claim Statement denying the averments in Written Statement.

5. On the basis of pleading Issues were framed at Exhibit 22, and in that context workman Raut filed affidavit in lieu of Examination in Chief (Exhibit 25) and closed oral evidence vide purshis (Exhibit 30). In rebuttal, Senior Vigilance Officer Mr. Raju and the Assistant Manager-Training Mr. Sajjan filed affidavits (Exhibit 31/35) and closed oral evidence vide purshis (Exhibit 38).

6. Management Corporation filed written submissions Exhibit 39 and the copies of rulings Exhibit 41 and the workman Exhibit 40. On perusing the record as a whole and written submissions, I record my findings on the issues for the reasons stated below :

Issues	Findings
1. Whether the reference suffers from laches/delay?	No
2. Whether the action of the management of Regional Railway Manager, Konkan Railway Corporation Limited, Karwar in terminating the services of Shri Uday M. Raut, Driver w.e.f. 31-3-1998 is justified?	Punishment imposed on the workman being disproportionate action is not justified.

3. What relief Shri Raut is entitled to?

As per order below.

### REASONS

7. At the outset, the management Corporation has taken contention that the claim of the workman is hopelessly delayed thereby suffers from laches. It is pointed out that the workman was terminated from the service w.e.f. 31-3-1998 and that the cause was espoused in the year 2001 i.e. after about three years. In catena of Judgements Their Lordships of the Apex Court pointed out that aspect of delay is to be considered as per the facts and circumstances of each case. In the case in hand, delay is of three years. Workman has shown ignorance on the charge sheet and holding of domestic inquiry. Time limit is prescribed three years in so far as money matters are concerned, the delay of three years if looked from this point of view, cannot be said to be inordinate. The object of the statute is to ensure social justice to both employer and employees and to advance the progress of industry and that legislation is directing and regulating the service conditions of the workers, consequently, the relief will have to be moulded appropriately in so far as delay is concerned. On going through the delay caused in the matter in the light of the object of the act, cannot said to be stale and suffers from laches. Issue No. 1 is answered accordingly.

8. According to workman Raut, he was terminated without giving notice and without holding domestic inquiry is contrary to provisions of Section 25 of the Industrial Disputes Act and therefore his termination is illegal. Management refuted the same contending that workman remained absent without prior intimation on many occasions and that his absence being unauthorised, he was given charge sheets but he did not respond to that and eventually his absence created obstacle in the smooth working of the Corporation. He was terminated for the misconduct of unauthorised absence under the Discipline and Appeal Rules of the Corporation. Documents filed by Corporation with list (Exhibit 23, 28) shows workman was given charge sheets dated 12-6-1997, 16-6-1997 and also on 13-1-1998. In cross-examination para 15 workman clearly admitted that he had received charge sheet dated 13-1-1998 alleging his unauthorised absence for the period 2-9-1997 to 4-1-1998. This clearly shows that workman was made to know on his absenteeism. It is not that workman was kept in dark and that he was unaware of the inquiry.

9. From the evidence of Mr. Sajjan, Assistant Manager-Training, it is apparent that workman remained absent for many days during 1996 to 1998 without prior intimation or leave. According to workman he was absent from duty during 3-10-1997 to 27-10-1997 due to his accident and from 4-12-1997 to 13-12-1997 because of sickness of his wife and that he had apprised the same to the



Corporation. He admittedly however did not file documentary evidence to that effect. Had workman met with an accident and under treatment and his wife being sick he could have filed documents to that effect however, that is wanting. Apart from this workman in his cross-examination para 16 categorically admitted that he had remained absent unauthorisedly and that charge against him was unauthorised absence which can safely said to be proved.

10. Now point crops on as to whether the punishment of termination imposed on the workman for the unauthorised absence discussed supra is justified. According to Mr. Raju, Senior Vigilance Officer, workman remained absent from duty deliberately warrants removal and that consequently he was removed by the Order dated 31-3-1998. Record shows that not once but many days during the year 1996 to 1998 workman remained absent unauthorisedly thereby he is a chronic absentee. The Learned Counsel Mr. Naik for the management Corporation submits that workman, if a Driver remained absent not only the office work is paralysed but the officers put to difficulty and thereby obstacle is created in the smooth functioning and under such circumstances, punishment of dismissal imposed upon the workman is apt and adequate. Their Lordships of Supreme Court in Mithilesh Singh V/s. Union of India & Ors. 2003 SCCL&S 271 observed "absence from duty without prior intimation is a grave offence warranting removal from service". At this juncture the Learned Counsel Mr. Mane for the workman submits that workman a poor Driver put about six years service, small children are dependent on him. Considering the extenuating circumstances of unauthorised absence punishment of dismissal is harsh and disproportionate and therefore he prayed this Tribunal to interfere with the punishment under Section 11-A of the Industrial Disputes Act. Their Lordships of Supreme Court in Mithilesh Singh V/s. Union of India & Ors observed :

"the scope of interference with punishment awarded by Disciplinary Authority under section 11-A of the Industrial Disputes Act is very limited and unless the punishment appears to be shockingly disproportionate, the court cannot interfere with the same".

It is well settled that penalty must be commensurate with the gravity of offence charged and that discretion conferred by Section 11 of the Act on the Tribunal is to be exercised considering the record as a whole. Workman admitted that earlier for unauthorised absence his two annual increments were withheld for one year vide letter pg.5/6 (Exhibit 23). Considering his past record, his age and the nature of the misconduct on Unauthorised absence referred to above, to my view, punishment of dismissal is rather harsh and disproportionate and that punishment of withholding of two increments in future is apt and

proportionate and the same needs to be imposed and from this point of view action of the management is unjustified.

11. It is in the evidence of workman that since his dismissal he is Driver of mini bus and gets Rs. 2,000/ per month thereby, he is gainfully employed consequently he is not entitled to back wages. Issues are answered accordingly and hence the order:

### ORDER

The action of the management of Konkan Railway Corporation Ltd. in terminating the services of Shri Uday M. Raut, Driver, for misconduct of unauthorised absence from duty, is disproportionate and hence not justified and that punishment of stoppage of two increments for the future is apt and proportionate and the same is imposed on the workman. Consequently, management Corporation is directed to reinstate the workman Raut in service in continuity, however, without back wages.

S. N. SAUNDANKAR Presiding Officer

नई दिल्ली, 13 नवम्बर, 2003

का. आ. 3346.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं.-2, मुम्बई के पंचाट (संदर्भ संख्या सीजीआईटी 2/122 ऑफ 2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-11-2003 को प्राप्त हुआ था।

[सं. एल-41012/95/2001-आई.आर. (बी-1)]  
अजय कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2003

S.O. 3346.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/122 of 2001) of the Central Government Industrial Tribunal No. 2 Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Western Railway and their workman, which was received by the Central Government on 12-11-2003.

[No. L-41012/95/2001-IR (B-1)]

AJAY KUMAR, Desk Officer

**ANNEXURE**

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL No. 2,  
MUMBAI

**PRESENT:**

S.N. Saundankar,  
Presiding Officer

Reference No. CGIT-2/50 of 2001

EMPLOYERS IN RELATION TO THE  
MANAGEMENT OF WESTERN RAILWAY

The Divisional Railway Manager (Estt.),  
Western Railway,  
Divisional Office,  
Mumbai Central,  
Mumbai-400008.

V/s.

**THEIR WORKMEN**

Shri Gadanna Naganna,  
C/o. Church of Christ India,  
Thakkar Bappa Colony,  
Basant Nagar,  
Mumbai-400071.

**APPEARANCES:**

For the Employer : Ms. Delilah Fernandes,  
Advocate holding for  
Mr. Suresh Kumar.  
For the Workmen : Mr. Jaiprakash Sawant,  
Advocate.

Mumbai, dated the 26th September, 2003.

**AWARD****Part-I**

The Government of India, Ministry of Labour by its Order No. L-41012/95/2001/IR(B-I) dated 15-11-2001 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Western Railways, Mumbai by removing Shri Gadanna Naganna from the services w.e.f. 15-10-1996 is justified? If not, what relief the workman is entitled?”

2. Workman Gadanna Naganna was appointed as Gangman by the management Western Railway w.e.f. 26-10-1983. Workman averred that due to illness and certain difficulties beyond his control, he could not report for duty from 4-5-1994. He pleaded that he had received copy of order of his termination from 15-10-1996 in the year 1998. It

is his contention that Railway administration had not informed him on departmental inquiry and without giving him opportunity he was removed arbitrarily and as such the inquiry being against the principles of natural justice, vitiates and that findings recorded by the Inquiry Officer are perverse, consequently workman contended to set aside the inquiry directing the Railway administration to reinstate him in service with full back wages.

3. Management Western Railway resisted the claim of workman by Written Statement (Exhibit-8)-contending that Gadanna Naganna being a Railway Servant a Government Servant, governed under the Constitution of India is not a ‘workman’ within the definition of Section 2(s) of the said Act and that Railway being a welfare service is not an ‘industry’ under Section 2(j) of the Industrial Disputes Act. It is averred that since Gadanna Naganna remained absent without intimation from 4-5-1994 and the same being unauthorised, amounting to misconduct, he was issued charge-sheet dated 6-2-1995, however, he deliberately avoided to attend the inquiry therefore the Inquiry Officer proceeded the inquiry ex-parte. It is averred that, the Inquiry Officer held the workman guilty for his unauthorised absence and based on the findings, since workman committed misconduct was removed from the service under the Railway Service Rules. It is contended Inquiry Officer based on the documents and the evidence recorded the findings and therefore the inquiry being fair and proper, findings not perverse, inquiry cannot be set aside.

4. On the basis of pleadings Issues were framed at Exhibit-10 however in the context of preliminary issues, workman did not lead oral evidence vide purshis (Exhibit-14) but the Senior Section Engineer Mr. Chattopadhyay on behalf of the Railway administration filed affidavit in lieu of Examination in Chief (Exhibit-16) and closed oral evidence vide purshis (Exhibit-17).

5. Workman filed written submissions with copies of rulings (Exhibit-18). On perusing the record and hearing both the counsels, I record my findings on the preliminary issues for the reasons mentioned below:

Issues	Findings
1. Whether Gadanna Naganna is a ‘workman’ under Section 2(s) of the Industrial Disputes Act?	Yes.
2. Whether Railway is an ‘industry’ as defined under Section 2(j) of the Industrial Disputes Act?	Yes.
3. Whether the domestic inquiry conducted against the workman was as per principles of natural justice?	No.

4. Whether the findings of the Inquiry Officer are perverse?

Yes.

### REASONS

6. At the outset, the Learned Counsel Ms. Fernandes holding for Advocate Suresh Kumar for the Railway inviting attention to the Written Statement para 1 submits that Railway is performing governmental function, it is not a profit making activity but a welfare activity. She submits that functions performed by Railway are sovereign functions therefore it is not an 'industry' under Section 2 (j) of the Industrial Disputes Act. On the other hand, the Learned Counsel Mr. Sawant for the workman submits that in catena of judgments Their Lordships pointed out that Railway is an 'industry'. His Lordship of Bombay High Court in Writ Petition No. 1751 of 1991 by the order dated 11-10-2000 while deciding the applications filed against the Railway Department under section 33C (2) of the Industrial Disputes Act, clearly ruled that Railway is an 'industry'. In Writ Petition No. 1728 of 1998 in the matter of Western Railway V/s. Virendra Kumar dated 12-6-2003 Hon'ble High Court directed the Railway administration to pay overtime allowance to the workers. In view of the rulings referred to above, it is apparent that the Railway is an 'industry' and that Gadanna Naganna is a workman, consequently this Tribunal has jurisdiction in width to entertain and adjudicate the same. Issues No. 1 & 2 are answered accordingly.

7. So far domestic inquiry is concerned, Their Lordships of the Apex Court in Sur Enamel and Stamping Works V/s. Their Workmen 1963 II LLJ SCC 367, ruled that inquiry cannot be said to have been properly held unless:

- (1) the employee proceeded against has been informed clearly of the charges levelled against him;
- (2) the witnesses are examined-ordinarily in the presence of the employee in respect of the charges;
- (3) the employee is given a fair opportunity to cross examine the witnesses;
- (4) he is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter; and
- (5) the Inquiry Officer records his findings with reasons for the same in his report.

8. Admittedly workman was absent from duty from 4-5-1994 and that inquiry as to whether the said absence was unauthorised or otherwise, was conducted in English language. Senior Section Engineer of Railway Department Mr. Chattopadhyay in his cross-examination para 34 clearly admitted that copy of removal order dated 15-10-1996 was

given to the workman only in the month of September 1997. So far the charge-sheet is concerned Mr. Chattopadhyay concedes that workman had not received the same. It is therefore apparent that the inquiry was conducted keeping the workman in dark which is apparently contrary to the principles of natural justice and fair play. The object of the inquiry is to ascertain whether there was sufficient reason for the workman to absent himself from duty and that the same object has been frustrated by keeping the workman away.

9. On perusal the inquiry proceedings filed with list (Exhibit-12) it is seen the charge levelled against the workman was unauthorised absence from 4-5-94. According to workman he was absent due to illness for which medical certificates filed with list (Exhibit-13). Nothing on record to show that workman had knowledge on the inquiry, nor anything to show that copy of the finding of the Inquiry Officer was given to him at any time. Workman appears to be illiterate since put thumb impression on the claim statement (Exhibit-6) whereas the inquiry was admittedly held in English language. The Learned Counsel Mr. Sawant submits that inquiry was against the principles of natural justice and hence it vitiates. The question whether the principles of natural justice have been violated or not is to be found out on consideration as to whether the procedure adopted by the appropriate authority is in accordance with the law or not. Whether the delinquent knew the charges he was going to face, whether he has been given opportunity to state his case and whether the authority acted in good faith. The objective of principles of natural justice is to ensure that justice is done, that the person whose rights are going to be affected by the proposed action get a fair hearing. In the case in hand, there was no hearing, consequently inquiry is defective for which reliance can be had to State Bank of Patiala V/s. S.K. Sharma reported in 1996 II CLR 29. It is thus clear that the inquiry vitiates in toto. So far the findings of the Inquiry Officer are concerned, there is no need to record the same since the inquiry vitiates, relying on Central Railway. CST. Mumbai V/s. Rajan Kumar Mohalik. Assuming for a moment, point on perversity remains, going through the inquiry proceedings findings are apparently perverse. Issues are answered accordingly and hence the order:\*

### ORDER

The domestic inquiry conducted against the workman was not as per the principles of natural justice and the findings are perverse.

Management is allowed to lead evidence to justify its action.

S.N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2003

का. आ. 3347.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुम्बई पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ संख्या 2/24/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2003 को प्राप्त हुआ था।

[सं० एल-31011/20/2000-आई.आर. (विविध)]

सी. गंगाधरण, अवसर सचिव

New Delhi, the 13th November, 2003

S.O. 3347.—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/24/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 2 as shown in the Annexure in the Industrial Dispute between the Management of Mumbai Port Trust, and their workmen, received by the Central Government on 13-11-2003.

[No. L-31011/20/2000-IR (M)]

C. GANGADHARAN, Under Secy.

**ANNEXURE**

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

**PRESENT:**

Shri S.N. Saundankar,  
Presiding Officer.

Reference No. CGIT-2/24 of 2001

EMPLOYERS IN RELATION TO THE MANAGEMENT  
OF MUMBAI PORT TRUST

The Chairman,  
Mumbai Port Trust,  
Mumbai-400 038

V/s.

**THEIR WORKMEN**

The Secretary,  
Mumbai Port Trust Dock and Genl. Employers Union,  
Kangar Sadan,  
Nawab Tank Road, Mazgaon,  
Mumbai-400 010.

**APPEARANCES:**

For the Employer : Mr. Umesh Nawab,  
Advocate.

For the Workmen : Mr. Jaiprakash Sawant,  
Advocate.

Mumbai, dated the 12th September, 2003

**AWARD****Part-II**

By the Interim Award dated 7-2-2003 this Tribunal held that the domestic inquiry conducted against the workman Bahlani was as per the principles of natural justice and the findings are not perverse, consequently point as to whether punishment of removal imposed upon the workman is legal and justified in the contest of the action of the management remains for the consideration of this Tribunal.

2. The punishment as above was imposed on the workman for the proved charge of insubordination or disobedience and/or assault/intimidate to a superior officer and/or riotous/disorderly/indecent behaviour subversive of discipline, prejudicial to the interest of the port amounting to misconduct attracting Regulation-III of the MbPT Employees (Conduct) Regulations, 1976. According to the workman he was not in drunken state nor had misbehaved and averred that punishment imposed on him is severe and disproportionate to the proved charge. On the other hand management's contention is that workman's past record is blemished. He was penalised ten times during his tenure of service but he did not mend his conduct. It is contended in spite of warning and penalty workman not only abused his superior Shri V.B.S. Rao, Assistant Manager in the presence of his Security Guard but gone to the extent of manhandling him and to save his skin he left the yard without any trace which was serious misconduct and in this context punishment of removal is wholly adequate/proportionate.

3. In so far as issues No. 3 & 4 which remained to be adjudicated by this Tribunal workman filed affidavit in lieu of Examination in Chief (Exhibit 19) and closed oral evidence vide pursues (Exhibit 20). Management however did not oral evidence vide Purshis (Exhibit 21).

4. Management Port Trust filed written submissions (Exhibit 22). On perusing the record and hearing both the counsels, I record my findings on the issues for the reasons stated below :

Issues	Findings
3. Whether the action of the Management of Mumbai Port Trust Mumbai in terminating the service of Shri B. K. Bahlani, Asstt. Shed Superintendent by way of removal from service w.e.f. 16-12-1998 is legal and justified?	Action is legal and justified.
4. What relief the workman is entitled?	As per order below.

**REASONS**

5. So far power under Section 11-A of Industrial Disputes Act is concerned, Their Lordships of Supreme

Court in Mithilesh Singh V/s. Union of India & Ors 2003 SCC L&S 271 clearly observed :

"The scope of interference with punishment awarded by Disciplinary Authority under section 11-A of the Industrial Disputes Act is very limited and unless the punishment appears to be shockingly disproportionate, the court cannot interfere with the same".

Their Lordships further in para 10 pointed out that it is for the employee concerned to show how the penalty imposed was disproportionate to the proved charge.

6. As stated above, according to the workman punishment of removal is disproportionate. The proved charge of insubordination and/or disorderly/indecent behaviour attracts the provisions under the Employees (Conduct) Regulations 1976 wherein punishment of removal is provided. While imposing punishment needless to say past record of the employee is to be seen. Workman clearly admitted in his cross-examination para 7 that for various reasons management. Trust had imposed many punishments upon him. In detail these punishments find place in the charge-sheet pg. 2/3 (Exhibit 12). It is seen workman was warned for smoking in docks and for desertion of post/duty and for reporting late. His wages were deducted and increments were withheld, for negligence and late reporting to duty. It is seen despite the warning/penalty referred to above, workman did not mend his conduct and that he had gone to the extent of abusing/assaulting his superior, for which the only punishment of removal is apt and adequate as prescribed. No mitigating circumstances have been placed by the workman to show as to how the imposed punishment could be characterised as disproportionate or shocking. Considering the evidence as a whole, the past record of the workman, the proved misconduct to my view warrants removal from service which is statutorily prescribed and the same has been imposed by the management, consequently, the action of the management is wholly legal and justified. Issues are answered accordingly and hence the order :

#### ORDER

The action of the management of Mumbai Port Trust Mumbai in terminating the services of Shri B. K. Bahlani, Assistant Shed Superintendent by way of removal from service w.e.f. 16-12-1998 is legal and justified.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2003

का. आ. 3348.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ संख्या

2/70/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-11-2003 को प्राप्त हुआ था।

[सं० एल-12012/91/2002-आई.आर.(बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 13th November, 2003

**S.O. 3348.**—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/70/2002) of the Central Government Indus. Tribunal-cum-Labour Court, Mumbai No. 2 as shown in the Annexure in the Industrial Dispute between the management of Canara Bank, and their workmen, received by the Central Government on 12-11-2003.

[No. L-12012/91/2002-IR (B-II)]

C. GANGADHARAN, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

#### PRESENT:

Shri S.N. Saundankar,  
Presiding Officer.

Reference No. CGIT-2/70 of 2002

EMPLOYERS IN RELATION TO THE MANAGEMENT  
OF CANARA BANK

The Deputy General Manager,  
Canara Bank,  
D.A. Cell Circle Office,  
Mumbai City,  
Maker Towers 'E', 13th Floor,  
Cuffe Parade,  
Mumbai-400 005

V/s.

#### THEIR WORKMEN

Mr. Mangesh M. Kunbi,  
At Post Rajpuri,  
Tal Murud Janjira,  
Dist. Raigad (Maharashtra).

#### APPEARANCES:

For the Employer : Mr. S.V. Alva  
Advocate.

For the Workman : Mr. Jaiprakash Sawant,  
Advocate.

Mumbai, dated the 17th September, 2003

#### AWARD

The Government of India, Ministry of Labour by its Order No. B12012/91/2002-IR (B-II) dated 6-9-02 in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, have referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Canara Bank, Mumbai in terminating the services of Shri Mangesh M. Kunbi Ex-Peon w.e.f. 22-3-2000 without conducting a domestic inquiry is legal and justified? If not, what relief the workman concerned is entitled to?"

2. Workman Mangesh Madhukar Kunbi was appointed as Peon in the management Canara Bank 18-11-1997. Vide Claim Statement (Exhibit-7) workman averred that his services were found satisfactory therefore he was confirmed in the service after completion of six month probation period. However based on the falsification of the caste certificate by Caste Scrutiny Committee, the Bank hurriedly terminated his service by the letter dated 22-3-2000. It is pleaded that his termination being against the provisions of the Industrial Disputes Act and hence illegal, the Bank be directed to reinstate him in service with full back wages.

3. Management Canara Bank resisted the claim of workman vide Written Statement (Exhibit-8) contending that the Reference is not maintainable as it does not fall within the meaning of Section 2(k) of Industrial Disputes Act and in view of the directions of the Hon'ble Apex Court in case **Kumari Madhuri Patil and Anr. V/s. Additional Commissioner, Tribal Development and Ors. (1994) 6 SCC 241**. It is contended that the workman was appointed in the Bank on 18-11-1997 in Reserved Category of Scheduled Tribe on the basis of the caste certificate issued by Sub-Divisional Officer, Alibagh dated 21-8-1996 wherein it was mentioned that he belongs to Mahadeo Koli Community however the Scrutiny Committee cancelled the said caste certificate holding workman does not belong to Scheduled Tribe vide Order dated 24-12-1999 and as such by making false claim and by producing fake caste certificate, workman sought the appointment and therefore he was terminated from the service of the Bank by the Order dated 22-3-2000 relying on the decision of the Hon'ble Apex Court in Madhuri Patil's case. It is contended that as per the observations no domestic inquiry is contemplated and therefore the claim of the workman being ill founded, be dismissed with costs, in limine.

4. On the basis of the pleadings Issues were framed at Exhibit-9. Both the parties vide purshis (Exhibit-11) did not lead oral evidence and that they both have filed written submissions along with copies of rulings vide (Exhibit-12, 13, 14 & 15).

5. On perusing the record, the written submission and hearing both the counsels at length, I record my findings on the issues for the reasons mentioned below :

Issues	Findings
1. Whether it is proved that workman sought employment in the management Bank by producing fake caste certificate ?	Yes.

- |   |                      |
|---|----------------------|
| 2. Whether the Reference is not maintainable as averred in Written Statement para 1(a) and (b) ?  | Not maintainable.    |
| 3. Whether the action of the Management of Canara Bank Mumbai in terminating the services of Shri Mangesh M. Kunbi, Ex-Peon w.e.f. 22-3-2000 without conducting a domestic enquiry is legal and justified ? | Legal and justified. |
| 4. What relief the workman concerned is entitled to ?   | As per order below.  |

### REASONS

6. The Learned Counsel for the management Bank Shri Alva submits that Reference is not maintainable in view of the observation of the Hon'ble Apex Court in case **Kumari Madhuri Patil and Anr. V/s. Additional Commissioner, Tribal Development and Ors. (1994) 6 SCC 241**. He submits that the Hon'ble Supreme Court observed that order passed by the Scrutiny Committee shall be final and conclusive and that no suit or other proceedings before any other authority against the order of the Scrutiny Committee shall lie and further directed that since the findings as recorded by the Scrutiny Committee holding that the certificate obtained was false on its cancellation and confiscation simultaneously, it should be communicated to the concerned authority to cancel the admission or the appointment without any further notice to the candidate relying on the said decision, the workman since obtained service by producing a fake certificate, he was terminated by the Order dated 22-3-2000 and under the circumstances reference is not maintainable. On the other hand, the Learned Counsel Mr. Sawant for workman submits that as per the principles of natural justice holding departmental inquiry is a must and that removal of workman without holding domestic inquiry, is illegal and under the circumstances the Reference is well maintainable.

7. On perusal the documents filed with list (Exhibit 10) it is seen workman had sought appointment of Peon in the Canara Bank by producing caste certificate issued by Sub-Divisional Officer Alibagh Division dated 21-8-96 wherein his caste was stated as Mahadeo Koli, S.T. and that the said caste certificate was cancelled by the Scrutiny Committee constituted by the Government of Maharashtra, holding the workman does not belong to Mahadeo Koli, S.T. Community by the Order dated 24-12-1999.

8. Their Lordships of Supreme Court in case **Kumari Madhuri Patil and Anr. V/s. Additional Commissioner, Tribal Development and Ors. (1994) 6 SCC 241** referred to supra in para 13 : (15) directed, since the finding recorded

by the Scrutiny Committee holding that the certificate obtained was false, on its cancellation and confiscation simultaneously, it should be communicated to the educational institution concerned or the appointing authority by registered post with acknowledgement due with a request to cancel the admission or the appointment and that appointing authority, should cancel the admission/appointment, without any further notice to the candidate and debar the candidate from further study or continue in office in a post and further ruled that the order passed by the Scrutiny Committee shall be final and conclusive and that no suit or other proceedings before any authority should lie. In Para 16 The Hon'ble Apex Court observed when it is found to be a case of fraud played by the concerned, no sympathy and equitable considerations can come to his rescue further directing the state concerned, should endeavour to give effect to it and see that the constitutional objectives intended for the benefit and advancement of the genuine Scheduled Castes/Scheduled Tribes or backward classes, as the case may be, are not defeated by unscrupulous persons and further directed the admission wrongly gained or appointment wrongly obtained on the basis of false social status/certificate necessarily as the effect of depriving the genuine Scheduled Castes/Scheduled Tribes or OBC candidates as enjoined in the constitution of the benefits conferred on them by the constitution. The Division Bench of the Hon'ble Bombay High Court in **Writ Petition No. 1720 of 2000 in Nithin Narayan Choulkar V/s. Canara Bank** wherein the petitioner Nithin had sought employment in the Bank of stating his caste as Hindu Koli by the Order dated 4th April, 2000 observed "the findings recorded by the Scrutiny Committee are essential findings of fact and it is not permissible for this Court to sit in appeal over the decision of Committee, the petitioner was given employment in Bank against the said certificate for ST communities in view of the decision of the Scrutiny Committee the Bank has terminated the services of the petitioner which do not find any infirmity in the order passed by the Bank. The petition is dismissed summarily."

9. Considering the facts of the case, in the light of the decisions referred to above, to my view, the Reference is not maintainable and consequently workman's claim deserves to be dismissed. Issues are answered accordingly and hence the order :

### ORDER

Reference stands dismissed as not maintainable.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2003

**का. आ. 3349.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों

के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पूणे के पंचाट (संदर्भ संख्या 11/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2003 को प्राप्त हुआ था।

[सं० एल-12012/16/2001-आई.आर.(बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 13th November, 2003

**S.O. 3349.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 11/2001 of the Industrial Tribunal, Pune (Maharashtra) as shown in the Annexure in the industrial dispute between the management of Union Bank of India and their workmen, received by the Central Government on 13-11-2003.

[No. L-12012/16/2001-IR (B-II)]

C. GANGADHARAN, Under Secy.

### ANNEXURE

### BEFORE SHRI J. L. DESHPANDE, INDUSTRIAL TRIBUNAL, PUNE

### REFERENCE (IT) NO. 11/2001

### BETWEEN:

Union Bank of India  
S. No. 88/4, Plot No. 12,  
Pushpa Apartment,  
Gujarat Colony,  
Paud Road, Kothrud,  
Pune-29.

... First Party

### AND

Shri J. B. Bacche  
C.P.O. Kauds  
Tal. Rajgurunagar,  
Pune-411 042

... Second Party

**CORAM :** Shri. J. L. Deshpande, Industrial Tribunal, Pune.

**APPEARANCES :** Smt. A.A. Wachasunder, Advocate for the First Party.

Shri. R. P. Shaligram,  
Advocates for the Second Party

### JUDGMENT

(Dated, 16-10-2003).

1. This is the reference under Section 10(1) (d) and Sub-section (a) of the Industrial Dispute Act, 1947. The facts giving rise of this reference may be stated, in brief as follows :

(a) The First Party (Union Bank of India is a nationalised Bank having its branches all over India. The



Second Party (Shri : J. S. Bacche), was employee of the First Party as a Daptaree and thus, he was in the workman category. It is alleged that on 26-3-98, the Officer of the First Party Bank handed over two NSC's for obtaining encashment from Shosari Post Office. The Second Party obtained payment amounting to Rs. 12,90/- from the said Post Office, but he failed to report to the Branch. The First Party Bank sent telegram on 17-4-98 to report and deposit the maturity value of NSC. However, the Second Party workmen failed to deposit the same. On 27-5-98, the First Party Bank served chargesheet on the Second Party workmen with the allegations of misconduct on the ground that he collected the amount of NSC's but failed to deposit the same at the Bank. The Enquiry Officer conducted the enquiry and submitted report on 22-9-1998 that the charges were proved against the Second Party workmen.

(b) On giving personal hearing and by order dated 18-11-98, the disciplined authority, who accidentally happened to be the Enquiry Officer, passed order to dismiss the Second Party workmen from the services of the First Party Bank.

(c) The departmental appeal preferred by the Second Party workmen came to be rejected. The Second Party workmen then approached the Commissioner of Labour with his grievance and competent authority referred the demand of the Second Party workmen to this Tribunal for adjudication.

(d) On receipt of the notice, the Second Party workmen filed statement of claim Exh. U-7 and submitted that the allegations in the chargesheet were vague. The Enquiry Officer himself imposed punishment without authority and the dismissal order was illegal. He further submitted that amount collected by him from the Post Office was stolen while he was travelling in the train, but this fact was not taken into consideration by the Enquiry Officer.

2. The First Party Bank, filed its written statement and denied the allegations in the statement of claim. According to the Bank, vide staff circular dated 28-5-81, the Enquiry Officer was authorised to hold enquiries, impose punishment and dispose off the appeals. Thus the Enquiry Officer was competent to inflict punishment. The First Party denied the allegations as regards bias attitude of the Enquiry Officer and submitted that the enquiry was fair and proper.

3. Following issues came to be framed at Exh. Q-5. Amongst them, Issue No. 1(a) pertained fairness of the enquiry and vide order dated 20-2-2003, it was answered in affirmative holding that the enquiry was fair and proper and principles of natural justice were followed.

4. The issues with their findings thereof are as follows :

ISSUES	FINDINGS
1(a) Whether enquiry conducted by the Enquiry Officer was legal, fair and proper and principles of natural justice were followed?	Yes.
1(b) Whether findings recorded by the Enquiry Officer are perverse?	No.
1(c) Whether misconduct of the complainant/delinquent is proved before the Enquiry Officer or before the Court?	No.
2. Whether action of the management is legal and justified?	Yes.
3. What award?	As per final order.

### REASONS

#### ISSUE NOS. 1(a), (b) & (c) :

5. As pointed out above vide dated 20-2-2003, Issue No. 1(a) has been answered in affirmative holding that the enquiry was fair and proper and principles of natural justice were followed.

6. Alongwith the list Exh. C-8, the First Party produced copies of the enquiry papers. Then with list Exh. C-9, the First Party Bank produced original documents of the enquiry. I have gone through the same. I have also gone through the evidence of the Second party workmen, record before this Court as well as evidence of the witness examined by the First party management.

7. From the copy of the staff circular No. 2309, it is seen that the disciplinary authority was conferred with the authority to hold enquiry himself and also the said authority was conferred with the authority to impose punishment and dispose off departmental appeal. Thus, there is no substance in the contention that the disciplinary authority and the Enquiry officer were one and the same and the disciplinary authority was not competent to pass the order of dismissal of Second Party workmen. It was on the basis of the authority conferred on the concerned authority vide staff circular No. 2309. The disciplinary authority imposed the punishment of dismissal on the basis of findings recorded by the Enquiry Officer.

8. On going through the proceedings of the enquiry, it is seen that the Second Party workmen had collected 2 NSC's to encash the same from Bhosari Post Office and he in fact, encashed the same. The Second Party workmen did not set up the case that he did not receive the amount of the proceeds of the NSC, but he took stand that the said amount was stolen while he was travelling in train. He noted that the Second Party workmen did not hold complaint with the police regarding the stolen amount. On the contrary, it was the First Party Bank who filed the complaint with the police. This circumstance is material.



9. Apart from that, before the Enquiry Officer, the Second Party workmen admitted the charges levelled against him. This is borne out from the proceedings of the enquiry, dated 22-9-1998 and the material admission is at Page 6 of the original enquiry proceedings. Still then the Enquiry Officer through it proper to hold the enquiry into the charges.

10. It is further seen from the enquiry proceedings that on 26-3-1998, the complainant collected two NSCs and encashed the same at Post Office Bhosari. He did not report at the Branch Office of the First Party Bank from where he had collected the NSC. He did not inform the Branch Office that the amount of NSC was stolen/lost while travelling in train. It appears from the papers of enquiry that on 9-4-98, the First Party sent telegram Second Party workmen to report at the Bank. This was followed forwarded by reminder letters dated 11-4-98, 17-4-98 and 23-5-98, still then the Second Party workmen did not report at the Bank and did not resume duty. On 7-9-1998, the Second Party workmen sent letter that would resume duty and deposit the amount. Still then, he did not resume his duties. Ultimately on 17-9-98, the First Party Bank filed complaint with the police. All these circumstances were taken into consideration by the Enquiry Officer while submitting report Exh. C-26 on making analysis of the evidence adduced before Enquiry Officer as well as before the Court. I find that the findings recorded by the Enquiry Officer cannot be said to be perverse.

11. As regards the punishment of dismissal inflicted by the disciplinary authority : It is seen from the record that the said authority has given personal hearing to the Second Party, past record of the Second Party workmen was produced before the disciplinary authority. It is seen that on number of occasions punishment was imposed on the complainant - Second Party workmen for unauthorised absence. Once he was dismissed from the services, but again he has been reinstated with punishment, of stoppage of two increments. It is further seen that with record of another misconduct, he was dismissed from the services, but on appeal, the punishment was set aside. The past record of the Second Party workmen was not unblemished.

12. Apart from that, in the present case, the Second Party workmen realise two NSC's handed over to him and collected amount around Rs. 12,000/-. He did not deposit the same with the Bank and thus misappropriated the amount. The charge of misappropriation is of serious nature. No licence should be shown to the employee who is found guilty of misappropriation of the amount. In the present case, the First party employer is the Bank and the Second Party is the employee of the said Bank. Thus the misconduct of the misappropriation of the amount assumes more importance. The Bank must have lost faith with the Second Party workmen. Having regard of the seriousness of the misconduct proved against the Second Party and having regard to the past record of the Second Party

workmen, I find that the authority did not commit any error in imposing punishment of dismissal. Thus, this is not the case in which it could be said that the punishment of dismissal as disproportionate to the misconduct proved against the employee.

13. In view of the findings recorded above, I hold that the demand of the reinstatement of the Second Party workmen cannot be considered and the action of the management of the First Party Bank in dismissing the Second Party is legal and just.

14. As a result of this, I proceed to pass following award :

#### AWARD

1. The action of the First Party Bank in dismissing employee Mr. J. B. Bacche w.e.f. 18-11-98 is legal, just and proper and the Second Party workmen is not entitled to any relief.
2. Award accordingly.

J. L. DESHPANDE, Industrial Tribunal

Dated, 16-10-2003

नई दिल्ली, 13 नवम्बर, 2003

का. आ. 3350.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स कोठारी ओवरसीज प्रा. लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, मुम्बई के पंचाट (संदर्भ संख्या 41/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2003 को प्राप्त हुआ था।

[सं० एल-36011/2/2000-आई.आर. (विविध)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 13th November, 2003

S.O. 3350.—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 41/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 1 as shown in the Annexure in the Industrial Dispute between the Management of The Manager, M/s. Kothari Overseas Pvt. Ltd., and their workmen, received by the Central Government on 13-11-2003.

[No. L-36011/2/2000-IR (M)]

C. GANGADHARAN, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, GOA CAMP

Present : Shri Justice S. C. Pandey

Presiding Officer.

**REFERENCE NO. CGIT-41/2000**

**PARTIES:** Employers in relation to the management of  
M/s. Kothari Overseas Pvt. Ltd.

**AND**

**THEIR WORKMEN**

**APPEARANCES:**

For the Management : Mr. Jaiprakash  
For the Workmen : Absent  
State : Goa

Goa dated, the 29th day of October, 2003

**AWARD**

1. This is a reference made by the Central Government in exercise of its powers conferred by clause (d) of Sub-section (1) and Sub-clause 2A of Section 10 of the Industrial Disputes Act, 1947 (the Act for short) in resolving the following dispute between M/s. Kothari Overseas Pvt. Ltd. (the company for short) and Marmagoa Water Front Workers Union. (The union for short) representing the workmen of that company. "Whether the demand of the Marmagoa Water Front Workers Union, Goa that the management of M/s. Kothari Overseas Pvt. Ltd., Goa has illegally retrenched the services of 38 workmen (as per the Annexure "A" enclosed) is legal and justified? If yes, to what relief the workmen are entitled for?"

2. After going through the order sheets, from the date of receipt of this reference it is found that on several dates between 11-9-2000 to 13-12-2002 nobody appeared on behalf of both the parties. The case was then fixed for appearance of the parties at Goa camp. On 14-1-2003 F. X. Rodrigues, Gen. Secretary of the Union appeared and requested for adjournment for a next date. i.e. 15-1-2003. On that date the company was also represented by Sh. Mendez, Advocate. On next date also Mr. Rodrigues asked for adjournment to file Statement of claim saying that the workmen have dispersed to several other places and it is not possible to conduct them. It was requested 40 days time was granted for filing the statement of claim. Since 16-1-2003 no Statement of claim was filed. The case was fixed for appearance of parties on 27-10-2003. Nobody was present on behalf of the Union. The management was represented by Mr. Jaiprakash. The case was fixed today for appearance on behalf of the Union. None is present. The tribunal has been informed by the counsel appearing in three other cases that Union is defunct.

Looking to the facts and circumstances, it appears to this tribunal that this dispute is not likely to be prosecuted further by the workmen on whose demand the dispute was referred to this tribunal by the Central Government. Consequently, this tribunal holds that no dispute exists between parties which can be adjudicated upon by answering this reference.

3. Accordingly, this reference is answered by saying that there exists no dispute for adjudication by this tribunal.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2003

**का. आ. 3351.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुम्बई पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ संख्या 2/78/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-11-2003 को प्राप्त हुआ था।

[सं० एल-31012/11/2000-आई आर (विविध)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 13th November, 2003

**S.O. 3351.**—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/78/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 2 as shown in the Annexure in the Industrial Dispute between the Management of Mumbai Port Trust, and their workmen, received by the Central Government on 12-11-2003.

[No. L-31012/11/2000-IR (M)]

C. GANGADHARAN, Under Secy.

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI**

**PRESENT:** Shri Saundankar  
Presiding Officer.

**REFERENCE NO. CGIT-2/78 of 2000**

Employers in relation to the management of Mumbai Port  
Trust

The Chairman,  
Mumbai Port Trust,  
Mumbai-400 038.

V/s

**THEIR WORKMEN**

Shri Yashwant Pandurang Sawai,  
R. No. 41, Shivtrusti Machhimar Nagar No.4  
Capt. P. P. Marg, Cuffe Parade,  
Mumbai-400 005.

**APPEARANCES:**

For the Employer : Mr. M. B. Anchan,  
Advocate.

For the Workmen

Mr. Jaiprakash Sawant  
Advocate.

Mumbai, dated the 6th day of October, 2003

**AWARD****Part-II**

By the Interim Award dated 19-7-2002 this Tribunal held that the domestic inquiry conducted against the workman Sawai was as per the principles of natural justice however the findings recorded by the Inquiry Officer are perverse. consequently, management Trust was directed to lead evidence to justify its action in so far as issues Nos. 3 & 4 are concerned.

2. According to management Mumbai Port Trust, workman Sawai, 'A' category mazdoor promoted in 1988 was apprehended with a bag containing pen sets (38 ball pens) from the cargo on 27-11-1996 which offence amounts to misconduct under the Service regulations therefore the departmental inquiry was held about the said charge and that the Inquiry Officer found the workman guilty and based on the findings, the Disciplinary Authority dismissed him from service by the Order dated 24-4-1999. In appeal, however, on compassionate grounds, punishment of dismissal was reduced to removal from service. Workman denied on committing theft and that according to him, while returning to home on his way towards gate of Manganese Depot outside the shed he was stopped by the Security Guard and that he handed over the bag to the Superintendent Mr. Kadam and thereafter he was told that the bag was containing stolen pen sets. It is his case that the pen sets might have planned by the Security Guards or somebody else and that he had no conscious possession over the said property. According to the workman he was acquitted by the Additional Metropolitan Magistrate, 5th Court, Dadar, Mumbai for the offence of theft by the Judgement and Order dated 17-7-1997.

3. To prove the charge of theft, Ramchandra Parasnath Dube (Security Guard), Mr. M. M. Sharma (Assistant Security Officer), Mr. A. K. Shah (Export Manager, Clear Fast Air Cargo Agency Pvt. Limited), Mr. D. K. Bapardekar (Shed Superintendent, Dock Department) filed affidavits in lieu of Examination in Chief (Exhibits 37, 44, 45, 46) on behalf of the management Mumbai Port Trust and examined Police Inspector Mr. S. A. Divekar at Exhibit-41 and closed oral evidence vide purshis (Exhibit 47). In rebuttal, workman Sawai filed affidavit (Exhibit 48) and closed oral evidence vide purshis (Exhibit 49).

4. Management Port Trust filed written submissions Exhibit 51 and the workman Exhibit 50. On perusing the record as a whole, written submissions, I record my findings for the reasons stated below :

**ISSUES**

1. Whether the action of the management of Mumbai Port Trust in dismissing Shri Yashwant P. Sawai from the services of the Port Trust, is justified and proper?
2. If not, what relief the workman is entitled to?

**FINDINGS**

Neither justified nor proper.

As per order below.

**REASONS**

5. As stated above, domestic inquiry in connection with charge of theft vide charge sheet dated 15-7-1997 was found improper however the findings were perverse therefore the management had to lead evidence on misconduct of the workman. The Learned Counsel Mr. Sawant for the workman at the threshold submits that the Metropolitan Magistrate for the offence of theft had acquitted the workman-accused in criminal case No. 565/P/96 dated 17-7-1997 therefore there was no propriety to hold the inquiry. I find no substance in the said submission of Mr. Sawant in as much as in service matters the evidence is to be looked from the angle of preponderance of probabilities and not from the point of view of benefit of doubt, as in criminal trials. True it is some of the witnesses in the inquiry before this Tribunal were the witnesses in the above said police case and that the Metropolitan Magistrate referring the Panchanama and the F.I.R. and evidence led by him held the accused workman not guilty.

6. Let us scrutinise the evidence led before this Tribunal to prove the misconduct of workman in the light of preponderance of probabilities. Police Inspector Mr. Divekar (MW-2) deposed that on 28-11-1996 workman accused was brought to the police station by the Superintendent Mr. Kadam and added that he had produced pen sets (38 ball pens) and those were seized under Panchanama (Exhibit 42) and that he recorded the complaint of said Kadam (Exhibit 43). He has disclosed that during investigation it was transpired that workman accused had committed theft of pens from the open shed of Mumbai Port Trust. Mr. Divekar is not the witness of the incident of finding the workman accused with pen sets therefore his evidence is no avail to the management. Mr. Sharma (MW-3) stated that he saw the broken boxes in Manganese Depot Shed No.3 and there he was told that some unknown persons had removed some pens by breaking exportable goods. He does not name the accused as author of the theft therefore his evidence is also not helpful to management.

7. Ramchandra Dube (MW-1) deposed to the effect that on 27-11-1996 he saw the workman crossing the road

near Shed No. 3, who was frightened, and on opening the bag he had, one ball pen like that of stolen ball pen found in his bag and therefore on suspicion he took him to Duty Officer Mr. Sharma. Dube is admittedly not working in the Dock Department. Alleged stolen ball pen set was not seen by him therefore hardly can be said that workman was found in possession of 38 ball pen in the bag. When according to Mr. Dubey only one pen was found in the bag contradicts the testimony of Mr. Shah (MW-4) who disclosed that 38 pens were recovered from workman by Mr. Kadam. Mr. Bapardekar much disclosed on checking the bag of the workman and finding pens therein, however in cross-examination para 4 he disclosed that he had not seen the contents in the bag nor ball pens. Thus the evidence of the witnesses of the management does not consistently point out that workman was found in possession of ball pens and those were stolen. The contention of the workman on this back ground that somebody from the Security Guard might have planted the pens in the bag, cannot be ruled out and in this context, the Judgment of Metropolitan Magistrate speaks volume.

7. On going through the record as a whole it can safely be said that workman did not commit theft of pens thereby committing misconduct under the service regulations does not arise. Since workman did not commit misconduct action of removal of workman is thus unjustified and improper. Consequently, workman is entitled to reinstatement in service in continuity with full back wages. Issues are answered accordingly and hence the order :

#### ORDER

The action of the management of Mumbai Port Trust by dismissing Shri Yashwant P. Sawai from the services of the Port Trust is unjustified and improper.

Management is directed to reinstate him with full back wages and continuity in service.

S.N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2003

का. आ. 3352.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या 123/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-11-2003 को प्राप्त हुआ था।

[सं० एल-12012/60/99-आई.आर. (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 13th November, 2003.

S.O. 3352.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award Ref. 123/2002 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of *Syndicate Bank* and their workmen, received by the Central Government on 12-11-2003.

[No. L-12012/60/1999-IR(B-II)]

C. GANGADHARAN, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

#### PRESENT:

SHRI E. ISMAIL, B.Sc., LL.B., Presiding Officer  
Dated the 3rd day of October, 2003

**INDUSTRIAL DISPUTE No. 123/2002**

(Old I.D. No. 41/99 transferred from Industrial  
Tribunal-1, Hyderabad)

#### BETWEEN:

Sri D. Krishna Rao,  
S/o Sri Gopalam,  
Nagulapalem,  
Parachur Mandal,  
Prakasam District. ... Petitioner

#### AND

The Deputy General Manager,  
Syndicate Bank, Zonal Office,  
Pioneer House,  
6-3-653, Somajiguda,  
Hyderabad-500 482. ... Respondent

#### APPEARANCES:

For the Petitioner : M/s B.G. Ravindra Reddy &  
S. Prabhakar Reddy,  
Advocates

For the Respondent : M/s, A. Krishnam Raju &  
K. Ramakrishna,  
Advocates

#### AWARD

The Government of India, Ministry of Labour by its order No. L-12012/60/99/IR(B.II) dated the 10-6-1999 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to the Industrial Tribunal-1, Hyderabad between the management of Syndicate Bank and their workman which has been transferred to this Tribunal in view of Government of India, Ministry of Labour's Order No. H-11026/II/2001-IR(C.II) dated 18.10.2001 bearing No. I.D. 123/2002. The reference is,

**SCHEDULE**

“Whether the action of the management of Syndicate Bank, Vijayawada in dismissing the services of Sri D. Krishna Rao, Ex.Attender, Nagulapalem branch without verifying the genuineness of the School Certificate and without giving fair opportunity in domestic enquiry is justified? If not, what relief the workman is entitled to?”

The reference is renumbered in this Tribunal as I.D. No. 123/2002 and notices issued to the parties.

2. The brief facts as stated in the claim statement are: That the Petitioner joined at Nagulapalem branch as attender and rendered unblemished and continuous service till 26-7-88 that is, till the date of his illegal dismissal from service for alleged commission of acts or misconduct that is willful insubordination and disobedience of lawful and reasonable orders of Management and superiors and for production of non-genuine transfer certificate issued by the Headmaster, Z.P. Tharlupadu, Prakasam District, knowing and having reason to believe that the said certificate is not genuine and producing it with malafide intention to enter into the service of the bank without being eligible for the said post. That the Petitioner was appointed on 29-3-75 by the Management of Nagulapalem, Prakasam District for a period of one month from 27-3-75. Later another appointment order dated 17-6-75 was issued by the Staff Controller of the bank after due verification of his candidature as attender. That there is no prescribed minimum education for the post of attender/messenger in the bank either as per the rules and regulations of the bank or any other provisions of his bipartite settlement. By the date of his joining in the service even illiterate persons and thumb impressionists were there in the service in the bank in temporary and permanent posts. Persons who were holding temporary posts were absorbed on permanent basis in course of time, without any improvement in their educational qualification. That as per sub-clause No.39/81/BC/PD/13/IRD dated 26.2.1981 issued by the Deputy General Manager, (Personnel), Head officer, Manipal, as per page 3 of the circular, it was provided that the primary educational qualification for sub-staff cadre is passing 5th standard. The said circular was issued much time after the Petitioner's appointment in the bank.

3. The Petitioner improved his educational qualifications and passed 10<sup>th</sup> class examination in the year 1988 and furnished his certificate to the bank. The Petitioner was asked to produce the record showing his candidates at the time of his initial appointment in 1975, the record pertaining to the year 1968 or so. The request was made in the year 1983 after the Petitioner completing eight years of service. The Petitioner has represented that he had produced the said record at the time of appointment and it could be verified, for which the officers of the local Management has insisted that the original certificate and

transfer certificate issued by the school authorities be produced even though the bank had a copy with it, verified by the Branch Manager.

4. The same material was collected behind the back of the Petitioner without any notice and without examining any persons concerned in his presence at any stage, even at the stage of domestic enquiry, inferences were drawn against him that he has produced his false transfer certificate at the time of appointment. The Headmaster who issued the transfer certificate was not examined. During the course of domestic enquiry and much less any opportunity given to him to cross examine the persons who had deposite against him. The Petitioner was not allowed to have the assistance of defence counsel at the time of the enquiry and the punishment of dismissal was imposed on him on 26.7.88 even without considering the unblemished past record of the Petitioner. He approached the ALC(C), Vijayawada but the Management continued to be adamant. Hence, the reference. Hence, he may be reinstated with back wages promotion benefits and all other incidental and consequential benefits in the interest of justice and equity.

5. The Respondent filed a counter stating that the Management issued a charge sheet dated 21-2-87 to the workman and he was dismissed from the bank as per proceedings dated 26.7.89. Sri D. Krishna Rao, while working as attender of Nagulapalem branch was issued with the charge sheet *inter alia*, charging him for commission of three gross misconducts, (1) doing an act prejudicial to the interest of the bank, vide clause No.19.5(j) of the Bipartite settlement, (2) willful insubordination and disobedience of lawful and reasonable orders of the Management and superior, vide Cl.No.19.5(e) of the bipartite settlement and (3) doing an act prejudicial to the interest of the bank, vide Clause No. 19.5 (j) of the Bipartite Settlement. The brief circumstances leading to the above three charges have been, that the transfer certificate produced by him at the time of his employment are not genuine and the Headmaster, Zilla Parishad High School, Tharlupadu, Prakasam District and knowing/having reasons to believe that the said certificate is not genuine, he deliberately produced it to the bank with a malafide intention to enter into the services of the as an attender without being actually eligible for the said post. He did not produce the certificate issued by the Headmaster for having passed VII class for verification by the bank and with utter disregard to the orders/directions of his higher officials. He did not submit any reply to the said letters. But in the letter of explanation dated 30.6.84, he stated that he has produced the original and copy of the transfer certificate to the Branch Manager along with the application and which are lying with the bank. In fact, he was already in receipt of the original transfer certificate and did not produce the same knowing and having reasons to believe that the said transfer certificate is false.

6. That he replied to the charge sheet and denied the charges and departmental enquiry was ordered. The Petitioner participated in the enquiry and thereafter did not turn up. Hence, the enquiry was proceeded ex-parte and accordingly dismissal order was passed. Hence, the Petitioner is not entitled for any relief.

7. This Court by an order dated 24-12-2002 held that the domestic enquiry is validly conducted. Therefore, the only point for consideration is whether the Petitioner is entitled for any relief of reduction of punishment under Sec. 11 A of the I.D. Act. Arguments were advanced on the same lines by both the counsels.

8. It is submitted by the Learned Counsel for the Petitioner that the Petitioner was appointed as temporary attender on 27-3-75 and confirmed as attender on 27-9-75. That there was no prescribed minimum educational qualification for the post of attender/messenger in the bank either as per the rules and regulations of the bank or any other provisions of Bipartite Settlement. Even illiterate persons, thumb impressionists were appointed. That as per circular dated 26-2-81, that for sub-staff cadre the qualification is passing 5th standard. The said circular was issued after the Petitioner's appointment in the bank. The Petitioner improved his educational qualification and passed 10th class examination in the year 1988 and furnished the certificate to the bank. The Petitioner was asked to produce the certificates showing record of his qualification. The request was made in 1983 after he has completed 8 years of service. Although the bank had a copy yet they insisted for original certificate and transfer certificate issued by the school authorities. The allegation that he produced false transfer certificate at the time of his appointment.

9. The allegation that he produced a false certificate at the time of his appointment, is not correct and he was not given a fair chance to defend himself. He further submits that as per bipartite settlement the Enquiry Officer while awarding punishment, gravity of the misconduct, previous record, aggravating extenuating circumstances also has to be considered, nothing has been considered. It is not simply used actually under the bipartite settlement, it is on musters and the Enquiry Officer does not reveal the same. He relies on chapter 19, 'Disciplinary Action and Procedure Therefor', at 19.12.(c) which states the above that these three things have to be considered. He also relies on a Judgement of our Hon'ble High Court rendered by Division Bench, reported in Notes on Recent Cases, wherein their Lordships held, "Under Rule 20(3) it is incumbent on the employer to take into account the gravity of the misconduct, the previous record if any, of the employee and any other extenuating or aggravating circumstance that may exist. This provision is not a mere procedural requirement, it vests a valuable right in every

employee governed by the Act, a statutory condition of service to have his previous record of service considered by the employer while deciding to award punishment for any proved misconduct. In this case, as there has been non-compliance of mandatory statutory provisions by the employer before awarding punishment, rendering the order of discharge illegal, the second Respondent rightly set aside the order of discharge passed by the Petitioner". He therefore submits that the dismissal order may be set aside.

10. It is argued by the Learned Counsel for the Respondent that the very entry of the Petitioner into service is by giving a false certificate. If such persons are retained in service what is the guarantee that they will not resort to any mischief. In fact his past record is even about L.F.C. And on the basis of the alleged matric certificate which he has passed, actually he wanted to be promoted as a clerk or cashier and then what would have been the fate of the bank if he had resorted to something more. Hence, it is submitted that the Hon'ble Court may not interfere with the punishment of dismissal already awarded.

11. No doubt in the Enquiry Report these conditions have not been satisfied. In fact, in another case reported in 1976 (5) APLJ page 42 the Division Bench of the Hon'ble High Court held, that the Tribunal is entitled to reject the application for approval if the Management fails to comply with the standing order which requires that the Management should take into account the gravity of misconduct, the previous record, if any, of the workman and any other extenuating or aggravating circumstances that may exist". So no doubt, technically I may set aside the dismissal order but, ultimately what happens? Another enquiry will be conducted and as I have held the enquiry is validly conducted. These two things will be considered, that is, the previous record and any other extenuating or aggravating circumstances. In fact, I will be considering these aspects apparently there is nothing on record to show that from 1975 the Petitioner has been guilty of any thing. No doubt in the petition purported to have sent against him there is mention of some L.F.C. (called as leave fare concession) but even MWI in the enquiry does not say anything about the L.F.C. So apparently we can take it for granted that his past conduct is satisfactory. The extenuating circumstances in favour of the Petitioner and he is now aged 42 years and by now he must be 45 years of age has put in 15 years of service, apparently without any charges or any such things and he was discharging his duties satisfactorily. Hence, I am of the opinion that the punishment of dismissal can be modified into one of compulsory retirement. Therefore, the award is passed as follows: "The Management of the Syndicate Bank, Vijayawada has verified the genuineness of the school certificate and fair opportunity was given in domestic



enquiry. However, punishment of dismissal is modified into one of compulsory retirement as on the date of dismissal dated 26th July, 1989.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 3rd day of October, 2003.

E. ISMAIL, Presiding Officer

#### Appendix of evidence

Witnesses examined for the Petitioner :	Witnesses examined for the Respondent :
NIL	NIL

#### Documents marked for the Petitioner

NIL

#### Documents marked for the Respondent

NIL

नई दिल्ली, 13 नवम्बर, 2003

का. आ. 3353.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स राधाकृष्णन शिपिंग प्रा. लि. के प्रबंधन के संबंध में निर्यातकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, मुम्बई के पंचाट (संदर्भ संख्या 18/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-11-2003 को प्राप्त हुआ था।

[ सं० एल-39011/5/2002-आई.आर.(विधि) ]  
सी. गंगाधरण, अवर सचिव

New Delhi, the 13th November, 2003

S.O. 3353.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 18/2002 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Mumbai No. 1 as shown in the Annexure, in the industrial dispute between the management of M/s. Radhakrishnan Shipping Pvt. Ltd. and their workmen, received by the Central Government on 12-11-2003

[No.-L-39011/5/2002 - IR(M)]

C. GANGADHARAN, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

#### PRESENT:

SHRI JUSTICE S. C. PANDEY : Presiding Officer

REFERENCE NO. CGIT-18/2002

#### PARTIES:

Employers in relation to the management of  
M/s. Radhakrishnan Shipping Pvt. Ltd.

AND

Their Workmen

#### APPEARANCES:

For the Management	: Sh. P.B. Achar, Adv. Sh. Kumar, Adv.
For the Workman	: Gen. Secretary.
State	: Maharashtra

Mumbai, dated the 17th day of October' 2003

#### AWARD

1. This is a reference made by the Central Government in exercise of its powers under clause 1 (d) of sub section 1 and sub-section 2-A of Section 10 of the Industrial Disputes Act for resolving the Industrial dispute between Radha Krishnan Shipping Pvt. Ltd. and Shri. Chandra Bhushan Verma represented by New Adarsh Kamgar Union 18/8 Acharya Nagar, Eastern Express Highway, Chembur through its President. The terms of the dispute are as given in the schedule as follows:

"Whether the action of the Management of M/s. Radhakrishnan Shipping Pvt. Ltd. Mumbai by orally terminating the services of Shri. Chanderbhushan Verma w.e.f. 15-4-2000 is justified? If not, what relief the workman, Shri. Chanderbhushan Verma is entitled to?"

2. Today, the representative for Management Sh. P.B. Achar is present with Sh. Kumar Advocate. The notice was served on the union for its appearance today by hand. The General Secretary of the Union was present in the office. He has stated in the notice in his own handwriting that the workman is not interested and therefore, the matter be disposed of.

In view of the aforesaid statement on behalf of the Union by its General Secretary this tribunal holds that industrial dispute does not survive for answering the reference.

4. According the mater is disposed off.

S. C. PANDEY, Presiding Officer.